

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890
25 January 2011

VIA MAIL AND EMAIL: [REDACTED]@aol.com

[REDACTED]
D'Iberville, MS 39540

RE: Claim Number: N10036-0100

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0100 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0100.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000433

CLAIM SUMMARY / DETERMINATION FORM

Date	: 25 January 2011
Claim Number	: N10036-0100
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$10,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] asserted that as an employee of the casino resort, [REDACTED] she has experienced a loss of hours, wages and gratuities due to the "adverse ecological and economical effects" resulting from the oil spill.¹

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the NPFC Optional OSLTF Claim Form dated 21 November 2010, a copy of various statements of earnings from [REDACTED] for the period 19 April 2010 through 11 July 2010 and a typed letter to the NPFC explaining her situation.

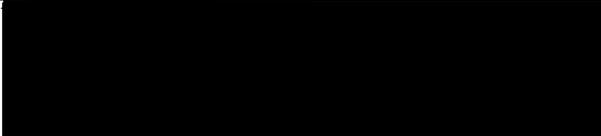
Claimant also presented a copy of a denial letter from the GCCF, Claimant Identification Number: [REDACTED], dated 12 November 2010, describing the determination for her Emergency Advance Payment submission.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings occurring as a direct result of the Deepwater Horizon incident. The NPFC made an official request for additional information on 23 December 2010. Claimant had 30 days in which to provide the

requested information or request an extension of time to submit the requested information. The Claimant has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA therefore this claim is denied.

Claim Supervisor: 

Date of Supervisor's review: *1/25/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

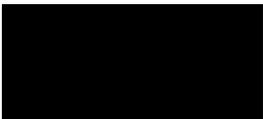
NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0102
14 March 2011



RE: Claim Number: N10036-0102

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0102 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0102.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000437

CLAIM SUMMARY / DETERMINATION FORM

Date	11 March 2011
Claim Number	N10036-0102
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$10,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$10,000.00 in lost earnings, allegedly resulting from the Deepwater Horizon oil spill.

Claimant asserted that he works as a tankerman for [REDACTED] of Baton Rouge, Louisiana. He explained that his duties include loading various types of chemicals, including oil, gas and ashes, onto barges and ships. He alleged that as a result of the Deepwater Horizon oil spill, oil in waterways prevented barges and ships from accessing the ports, leading to delays, reduced loadings and canceled shipments. Claimant asserted that his hours at SGS were consequently reduced, and he lost earnings.¹

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

¹ PHONECON between Claimant and NPFC on 29 November 2011.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form, dated 22 November 2010;
- 2007-2009 W2's from [REDACTED] and [REDACTED]
- A pay stub from [REDACTED] for 12 June 2010.

On 27 December 2010, the NPFC sent a letter requesting additional financial information in order to further evaluate the claim. The Claimant faxed his response to the NPFC on 09 February 2011. The response consisted of a typewritten response to the questions in the letter.

Claimant seeks \$10,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil spill.

On 09 October 2010, Claimant filed a six-month Emergency Advance Payment claim for \$20,000.00 in lost earnings with the GCCF. He was issued GCCF Claimant ID [REDACTED] and Claim [REDACTED]. On 06 November 2010, his claim was denied by the GCCF.²

NPFC Determination

² GCCF claimant status report for ID [REDACTED]
09/15/11

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Although the Claimant alleged \$10,000.00 in lost earnings, he provided only W-2's from 2007-2009 and one pay stub, dated 12 June 2010, from [REDACTED] to support this allegation. This evidence does not establish a basis for measuring and verifying the Claimant's alleged loss of \$10,000.00.³

Additionally, there is no indication from the evidence provided that the Claimant's alleged loss resulted from the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. The Claimant provided no documentation corroborating the assertion that his hours were reduced as a result of the Deepwater Horizon oil spill.

The claim is denied because the Claimant failed to meet his burden to demonstrate that his alleged loss in the amount of \$10,000.00 is due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: *3/11/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

³ In a letter dated 27 December 2010, the NPFC requested copies of all pay checks, pay stubs or earnings statements received for employment during 2009 through present.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 800-280-7118
E-mail: [REDACTED]
Fax: 202-493-6937
5890 DWHZ
Claim # N10036-0276
03 February 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7083 4219

[REDACTED]
Navarre, FL 32566

RE: Claim Number: N10036-0103

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0103 involving the Deepwater Horizon Incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0103.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U.S. Coast Guard
Claims Adjuster

Enclosure: Claim Summary / Determination Form
09/13/11

FOIA2001-3380-0000441

CLAIM SUMMARY / DETERMINATION FORM

Date	: 03 February 2011
Claim Number	: N10036-0103
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$25,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$25,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.¹

The Claimant was “working construction out of town and heard about [REDACTED] hiring” where he lives “to clean up these beaches.” The Claimant worked for two weeks and then was released from the response effort. The Claimant is claiming the lost profits and earnings that he would have made had he remained employed.²

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

¹ The Claimant's OSLTF submission dated 03 December 2010.

² The Claimant's handwritten and undated letter addressed To Whom It May Concern.

09/13/11
ENCLOSURE

FOIA2001-3380-0000442

Pursuant to 33 U.S.C. § 2715(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following:

- NPFC OSLTF Claim Form dated 22 November 2010;
- [REDACTED] Earnings Statement for pay period ending 05/15/2010 and 05/22/2010;
- 2009 IRS Form 1040 Tax Statement;
- [REDACTED] Construction Earnings Statement for pay period ending 03/28/2010, 04/04/2010, 06/13/2010, 06/20/2010, 09/23/2010, 09/30/2010; and
- A handwritten and undated letter addressed "[t]o whom it may concern".

On 27 October 2010, the Claimant filed an Emergency Advance Payment (EAP) claim to the GCCF for a \$12,000.00 lost wages and earnings. The GCCF assigned him Claimant ID # [REDACTED] and EAP Claim # [REDACTED]. The GCCF denied Claimant's EAP claim on 15 November 2010.

On 22 November 2010, the Claimant presented an OSLTF claim form for lost profits and earning capacity in the amount of \$25,000.00. In the handwritten letter, the Claimant states that he and his son and nephew were hired by [REDACTED] to assist with cleaning the beaches. The Claimant states that they were paid for a few hours, and then released from the response.³

NPFC Determination

This claim is denied. The OSLTF is available to pay certain uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4). Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all the documentation presented by the Claimant.

The claim is denied because the alleged loss in the amount of \$25,000.00 is not due to the injury, destruction, or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Claimant voluntarily left employment in the construction industry seeking higher wages as a response worker. Claimant did not lose his job as a result of the Deepwater Horizon incident. Claimant's subsequent loss of profits and earning capacity resulted from his new employer's business decision to terminate his employment as an oil spill response worker and is not compensable under OPA.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 2/4/11

Supervisor's Action: Denial Allowed

Supervisor's Comments:

³ The Claimant's NPFC OSLTF claim form fax dated 22 November 2010 and undated letter to whom it may concern

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937

5890

1/7/2011

VIA MAIL AND EMAIL: [REDACTED]



RE: Claim Number: N10036-0104

Dear Mr. [REDACTED]

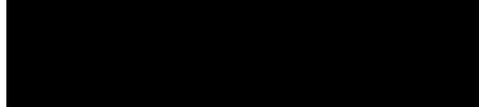
The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0104 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0104.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



Lieutenant Commander
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000445

CLAIM SUMMARY / DETERMINATION FORM

Date	06 January 2011
Claim Number	N10036-0104
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$16,015.65

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 18 November 2010, Mr. [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$16,015.65 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant is asserting that he was terminated by his employer, [REDACTED], as a result of the Deepwater Horizon incident.

Claimant was employed by [REDACTED] from 28 December 2009 through 30 April 2010 as a parts adder, inspector, and technician. Claimant described his employment duties to include retrofitting military specification parts and equipment to vehicles and acting as a parts technician for the warehouse.¹ Claimant also stated in his response to the NPFC that [REDACTED] was servicing diesel engines for fishing vessels and as a result of the Deepwater Horizon incident, business declined relative to the fishing industry. Claimant asserts that his employer's business declined following the Deepwater Horizon incident and he was laid-off as a result.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the

responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the Optional NPFC OSLTF Claim Form on 18 November 2010, pay stubs for employment from January through April 2010, 2008 and 2009 Individual Income Tax Return filings and bank statements for January through March 2010. Claimant indicates he submitted a claim to the GCCF on 20 October 2010 and has since been denied.

Claimant asserts that his employment was terminated at [REDACTED] as a result of the Deepwater Horizon incident. Claimant worked for [REDACTED] from 28 December 2009 through 30 April 2010. Prior to working for [REDACTED], Claimant retired from the [REDACTED] on 01 April 2009 and began working as a wastewater operator for [REDACTED] from July 2009 through October 2009. Claimant indicated that he took on a contract position with the [REDACTED] sometime during 2009, but did not receive work because 09/18 the project was not awarded the contract. Claimant began working for [REDACTED] on 28

December 2009. Upon being released from [REDACTED] on 30 April 2010, Claimant worked for [REDACTED] as an "oil spill recovery technician" from 05 July 2010 through 28 July 2010. Claimant did not provide information regarding his compensation for this employment.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. Claimant has not provided sufficient documentary evidence to support a loss of profits or earning capacity resulting from the Deepwater Horizon incident.

Claimant asserts that he was terminated from his employment on 30 April 2010 as a result of the Deepwater Horizon incident. Claimant believes that his employer, [REDACTED], was negatively impacted by the Deepwater Horizon incident, which led them to release him from employment. Claimant has not provided documentation from his employer to confirm the reason for his termination from [REDACTED]. Efforts by NPFC to contact employer have been unsuccessful.

Based on Claimant's limited work history since retiring from the [REDACTED] on 01 April 2009, Claimant has been involved with several companies for what appear to be temporary projects.

Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment and not a direct result of the Deepwater Horizon incident therefore this claim is denied.

Claim Supervisor: [REDACTED]

Date of Review: 1/7/11

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0106
03 February 2011

Re: Claim Number: N10036-0106

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0106 involving Deepwater Horizon. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0106.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Signature

A large black rectangular redaction box covering the signature of the U.S. Coast Guard Claims Manager.

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000449

CLAIM SUMMARY / DETERMINATION FORM

Date	: 03 February 2011
Claim Number	: N10036-0106
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$20,880.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 19 November 2010, [REDACTED] (Claimant) presented an Optional Oils Spill Liability Trust Fund (OSLTF) Claim Form for lost profits and earnings in the amount of \$20,880.00 to the National Pollution Funds Center (NPFC). The Claimant asserts that she was laid off as a caregiver because of the Deepwater Horizon incident. The Claimant also worked briefly for a company called [REDACTED] on the Deepwater Horizon incident. The Claimant was employed with [REDACTED] for two days, and was then released.¹

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

¹ Claimant's Optional OSLTF Claim Form submitted on 19 November 2010 and Command Center, Inc. letter To Whom It May Concern dated 01 November 2010

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted:

- Employer Letter dated 01 November 2010 documenting the Claimant as a caregiver for the past two years.
- Letter dated 01 November 2010 from [REDACTED] To Whom It May Concern on behalf of the Claimant.
- Social Security Card for the Claimant
- Employer Letter of Appreciation dated 5/24/10 documenting a final payment.
- 28 October 2010 GCCF Denial for Emergency Advance Payment Letter to the Claimant.
- Alabama Drivers License.
- Letter to GCCF dated 01 November 2010 requesting reconsideration.
- Undated thank you letter for care services to [REDACTED] from unknown person.
- Client information for 06/24/2010 date of service.
- 2009 IRS Tax Return Transcript.
- 2008 IRS Tax Return Transcript.

In a letter dated 01 November 2010, the Claimant's employer states that the Claimant was "my mother's caregiver for the past 2 years. When the Oil Spill occurred they were hiring all sorts of people and my family and I were scared that a strange person would knock on my mother's door late at nite (*error in the original*) when [the Claimant] was not there. So we relocated her..."²

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation presented by the Claimant.

Claimant has not provided sufficient documentation to substantiate that her earnings were impacted as a result of the Deepwater Horizon incident. For example, the income levels reported on Claimant's 2008 and 2009 tax returns did not corroborate with her reported weekly income described by her employer. Claimant has provided no other corroborating evidence to explain the discrepancy, accordingly, her claim is denied.³

Claim Supervisor:



Date of Supervisor's Review: 7/4/11

Supervisor's Action: Denial approved

Supervisor's Comments:

² To Whom It May Concern letter from Claimant's employer dated 01 November 2010

³ See, Claimant's 2008 and 2009 tax return statements; See also letter from Employer to Claimant dated 24 May 2010 and Letter from Employer to "To Whom It May Concern" dated 01 November 2010.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 202-493-1201
E-mail: [REDACTED]@uscg.mil
5890
12/28/2010

VIA MAIL AND EMAIL: [REDACTED]



RE: Claim Number: N10036-0107

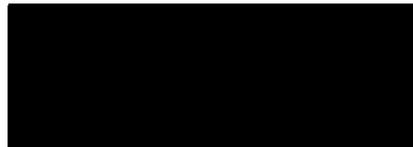
Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0107 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for a detailed description of the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0107.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/27/2010
Claim Number	: N10036-0107
Claimant	: [REDACTED]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$90,553.34

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon oil spill). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

CLAIM AND CLAIMANT

On 10 November 2010 the Claimant presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$90,553.34 in lost profits and earning capacity resulting from the Deepwater Horizon incident. The Claimant is a Company that provides pipe sling racks and pipe slings to equipment rental companies who service offshore drilling operations. The Claimant's customers, which are typically 3rd party equipment rental companies, broker the Claimant's products to various companies conducting drilling operations in the Gulf of Mexico. On the Claimant's OSLTF claim form, it states the claimed damages were caused by drilling rigs being shut down. The Claimant asserts that existing rentals were returned early while other future rentals were cancelled due to the reduction in drilling activity. The Claimant is requesting reimbursement from the NPFC for reduced rental equipment sales resulting from the Deepwater Horizon incident.

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject *Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf*. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant originally presented an OSLTF claim form on 10 November 2010 for \$90,553.34 and the following documentation: Claimant provided a summary of his monthly sales from 2007 through 2010, a letter from his customer [REDACTED] and 1040 Income Tax Return filings from 2007 through 2009. Claimant did not provide an explanation of how he computed his claim.

Claimant filed an initial claim with BP and was issued claim [REDACTED]. Claimant re-submitted a claim with GCCF on 28 September 2010 and was issued claim [REDACTED]. Although the Claimant did not provide claim correspondence from his claim with GCCF, he stated on his OSLTF claim form that his claim was denied.

Claimant asserts that he has attempted to find work but has been unsuccessful due to a lack of work resulting from the Deepwater Horizon incident.

NPFC Determination

Based on the information submitted by Claimant to the NPFC, it indicates that Claimant's business is dependant upon the operational status of offshore drilling companies. As such, Claimant has described his claimed lost profits and earning capacity as being caused by the moratorium and not the Deepwater Horizon incident. On the Claimant's OSLTF claim form he indicates in field #10, that his claimed damages were due to drilling rigs being shut down. Claimant also provided a letter from a customer indicating that equipment rentals were being returned early by rig operators who were preparing to shut down their operations².

In addition to the claim being a direct result of the moratorium and not the Deepwater Horizon incident, the Claimant has not provided evidence to suggest lost profits or earning capacity in the period prior to the enactment of the moratorium (20 April 2010 through 29 May 2010). Claimant provided monthly sales data to show historical and current sales from 2007 through 2010. The sales data indicates that the Claimant's annual sales had declined by 50% from 2008 to 2009. There are further uncertainties regarding the business's sales trends leading from 2009 into 2010. During the six months prior to the Deepwater Horizon incident, sales were 94% lower than the same period of time in prior years. The sales data shows there were no sales recorded during March and April 2010, while sales for January and February 2010 were significantly lower than the same months of the prior year. Therefore, the sales data provided by Claimant does not indicate a loss of profits from the date of the Deepwater Horizon incident through the enactment of the moratorium.

Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. All documentary evidence submitted by Claimant indicates that his loss resulted from the six month deepwater drilling moratorium. Claimant's loss, therefore, did not occur because of the Deepwater Horizon incident in the Gulf of Mexico, but because a determination was made and a directive issued by the Department of the Interior to enact a six month moratorium to implement new safety requirements.³ As a result,

² Letter from [REDACTED] dated 26 July 2010 to Claimant stating that their customers were returning rental equipment early due to the decline and stopping of drilling activity.

³ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. [REDACTED] Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision

the claimant's claim is considered a consequence of the moratorium, not the oil spill, and is not compensable under OPA.

Claim Supervisor:



Date of Supervisor's review: *12/28/10*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937
5890

12/10/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

RE: Claim Number: N10036-0108

[REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action.

All correspondence should include claim number N10036-0108.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

Claims Manager
U.S. Coast Guard

09/13/11

FOIA2001-3380-0000458

CLAIM SUMMARY / DETERMINATION FORM

Date 12/10/2010
Claim Number N10036-0108
Claimant [REDACTED]
Type of Claimant Private (US)
Type of Claim Loss of Profits and Earning Capacity
Claim Manager [REDACTED]
Amount Requested \$32,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

Claimant presented a claim of \$32,000 to the NPFC for Lost Earnings. Claimant owns shares of BP stock and states that she relies on the dividend payments distributed by BP to pay for her living expenses. During 2010, BP declared one cash dividend distribution on 02 February 2010 and paid the dividends on 8 March 2010. BP suspended further dividend distributions following the Deepwater Horizon explosion and fire and subsequent oil discharge.

Claimant presented an initial claim to the GCCF and was issued the Claim Number # [REDACTED]. That claim was denied by the GCCF on 20 October 2010.

APPLICABLE LAW

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 U.S.C. § 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 U.S.C. § 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 U.S.C. § 2702(b)(2)(E).

Pursuant to the implementing OSLTF claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated 10 November 2010 and a printout from the GCCF online-filing process regarding claim status as of 10 November 2010, which indicates that her claim was denied because the type of claim is not eligible for payments from GCCF. She also included a letter to BP Claims dated 13 July 2010 that describes her use of dividends from BP stock as a source of income. She provided her 2008 and 2009 Income Tax Return Form 1040 showing dividend income reported as \$36,510 and \$35,927 for 2008 and 2009, respectively. The Tax Return provided did not include a Schedule B or 1099-DIV's to identify the source of the stated dividend payments.

The Claimant's son states, on her behalf, that in 2008 and 2009, she received dividend payments from BP stock holdings averaging \$8,000 per calendar quarter, or \$32,000 per year. According to the Claimant's son, the "...oil spill has caused BP to stop paying dividends.

NPFC Determination

The claim is denied because the alleged lost income is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. The alleged loss is due to business decisions made by BP in respect to stock dividends to be distributed to investors. Such investment impacts are not damages that may be compensated from the OSLTF.

Claim Supervisor: 

Date of Supervisor's Review: 12/10/10

Supervisor's Comments: DENIAL APPROVED

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890
1/19/2011

BY MAIL AND EMAIL [REDACTED]

[REDACTED]

RE: Claim Number: N10036-0109

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0109.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely

[REDACTED]

Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	January 19, 2011
Claim Number	N10036-0109
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$14,100.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 18, 2010, the NPFC received an Oil Spill Liability Trust Fund (OSLTF) claim form from [REDACTED] (Claimant). The Claimant is presenting a claim for loss of profits & earnings in the amount of \$14,100.00 to the National Pollution Funds Center (NPFC) for reimbursement of lost wages and lost tips. The Claimant describes that he lost \$7,050.00 in base pay and \$7,050.00 in tips.

Claimant provided documentation showing that he had been employed by [REDACTED] as a beach attendant. He claims that his position as a beach attendant was impacted as a result of the Deepwater Horizon incident.

The GCCF assigned Claimant identification # [REDACTED]. The Claimant was compensated \$1,000.00 for his 6 month emergency claim and was denied for his supplemental claim.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, the Claimant submitted the following documentation:

- OSLTF claim form dated November 8, 2010
- Copy of the Claimant's 2009 IRS 1040 EZ in the amount of \$10,737.00
- Photocopy of Florida driver's license and Social Security Card
- Hardship letter (Not dated)
- Letter from [REDACTED] vouching for the Claimant's employment status during the 2010 season
- Payroll stubs from March 30, 2010 to October 12, 2010 totaling \$8,991.31
- GCCF online generated claim form
- Email between Claimant and GCCF concerning his disaster with only receiving \$1,000.00 for his 6 month emergency claim.

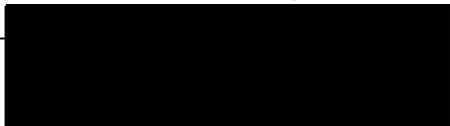
NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant's two page statement describes a loss but the records provided do not demonstrate a loss due to the Deepwater Horizon incident. The claimant provided canceled checks for the periods ending March 25, 2010 through October 7, 2010. It is unclear how the Claimant determined the amount of his claim; however, it is based on reduced hours totaling 94 days of work extended by \$150 per day (based on \$75 in wages and \$75 in tips). Based on the limited pre-loss information and lack of confirmation from the claimant's employer, the NPFC is unable to confirm that the Claimant's hours were in fact reduced subsequent to the Deepwater Horizon incident or the reason(s) for any reduction in hours. During the three two-week periods prior to the incident, it appears the claimant worked a total of 29.50 days (less than 10 days every two weeks). Subsequent to the incident, the number of days worked every two weeks remained consistent.

The claim is denied because the claimant has not met the burden of proof demonstrating that he has a loss of profits and that it was a direct result of the Deepwater Horizon incident.

Claim Supervisor:



Date of Supervisor's Review:

1/19/11

Supervisor's Action:

Denial approved

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890
1/19/2011

BY MAIL AND EMAIL: [REDACTED]

[REDACTED]

RE: Claim Number: N10036-0110

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0110 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0110.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/19/2011
Claim Number	: N10036-0110
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$14,240.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 18, 2010, [REDACTED] (Claimant) presented a lost profits and earnings claim in the amount of \$14,240.00 to the National Pollution Funds Center (NPFC). The Claimant was offered an assignment with Millard Refrigerated through Clark Personnel Services but was terminated due to the employer deciding to cancel all incoming ships. The Claimant found work with [REDACTED] (WCELS) as an oil-spill cleanup worker from July 2, 2010 to August 6, 2010. He then worked one day for [REDACTED] on September 10, 2010 before leaving to go back to work for [REDACTED] from September 11, 2010 through October 29, 2011.

On October 28, 2010, the Claimant was denied by the GCCF for claim # [REDACTED]. The Claimant did not provide the NPFC with the date he submitted the claim to the GCCF.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions, a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered.

Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

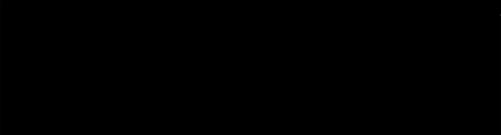
To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF claim form dated November 18, 2010
- Hardship letter (Not Dated)
- 2008 IRS Tax Return,
- Paycheck from [REDACTED] dated September 10, 2010
- Hardship letter from [REDACTED]
- Photocopy of ID badge with [REDACTED] Personnel Services
- Six earning statements from [REDACTED]
- Termination letter from [REDACTED] stating the Claimant was laid off due cleanup completion
- Copy of GCCF denial letter

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the Claimant has failed to meet his burden by providing documentation that demonstrates an actual loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: 

Date of Supervisor's review: *1/19/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

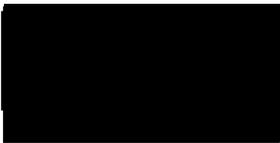
**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 800-280-7118
E-mail: [REDACTED]
Fax: 202-493-6937
5890/DWHZ
Claim No. N10036-0111
26 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7083 3892



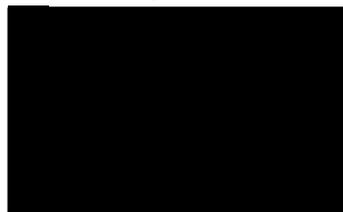
Re: Claim Number: N10036-0111

Dear [REDACTED]

I received your email dated 26 January 2011 instructing NPFC to withdraw your claim. Your claim file has been withdrawn.

If you decide to submit a claim in the future regarding your alleged loss, all information already provided will have to be resubmitted, along with the additional information we requested.

Sincerely,



U.S. Coast Guard
Claims Adjuster

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-430-0937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [REDACTED]

5890/DWHZ
Claim #N10036-0112
04 February 2011

RE: Claim Number: N10036-0112

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0112 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0112.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

A black rectangular redaction box covering the signature of the Lieutenant Commander.

Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000470

CLAIM SUMMARY / DETERMINATION FORM

Date : 04 February 2011
Claim Number : N10036-0112
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [REDACTED]
Amount Requested : \$58,604.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues.¹

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

On 18 November 2010, [REDACTED] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) claiming \$58,604.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

09/13/11
ENCLOSURE

FOIA2001-3380-0000471

Claimant asserts that “[he] was working not far from the deep water horizon at the time of the spill and was subsequently laid off due to lack of work as a result of the spill.”²

Claimant seeks lost wages from his unemployment.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- 1) That real or personal property or natural resources have been injured, destroyed, or lost.
- 2) That the claimant’s income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- 3) The amount of the claimant’s profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- 4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- 1) All income resulting from the incident;
- 2) All income from alternative employment or business undertaken;
- 3) Potential income from alternative employment or business not undertake, but reasonably available;
- 4) Any saved overhead or normal expenses not incurred as a result of the incident; and
- 5) State, local, and Federal taxes.

² Optional OSLTF Claim Form.
09/13/11

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the following documentation:

- Optional OSLTF Claim Form;
- Contact us page from [REDACTED], LLC;
- 2008 W-2 from [REDACTED] LLC;
- 2009 W-2 from [REDACTED] LLC;
- Form LWC 77 Separation Notice Alleging Disqualification;
- Check stub D26876 dated 11 December 2009 from [REDACTED] LLC;
- Check stub D28122 dated 24 December 2009 from [REDACTED] LLC;
- Check stub D28692 dated 31 December 2009 from [REDACTED] LLC;
- Check stub D29939 dated 15 January 2010 from [REDACTED] LLC;
- Check stub D31145 dated 29 January 2010 from [REDACTED] LLC;
- Check stub D32399 dated 12 February 2010 from [REDACTED] LLC;
- Check stub D33014 dated 19 February 2010 from [REDACTED] LLC;
- Check stub D34142 dated 05 March 2010 from [REDACTED] LLC;
- Check stub D34688 dated 12 March 2010 from [REDACTED] LLC;
- Check stub D38095 dated 16 April 2010 from [REDACTED] LLC;
- Check stub D38675 dated 23 April 2010 from [REDACTED] LLC;

Claimant seeks lost wages from being laid off from [REDACTED], LLC allegedly as a result of the Deepwater Horizon incident.

In October 2010, Claimant filed an Emergency Advance Payment claim with the GCCF.³ GCCF assigned him Claimant ID # [REDACTED] but has no record of any action on the claim. NPFC accepted review of the claim based upon the assignment of the GCCF Claimant ID #, confirming presentment, and the fact that ninety days has elapsed since the last day of October, the month in which the Claimant presented his claim, without action by the GCCF.

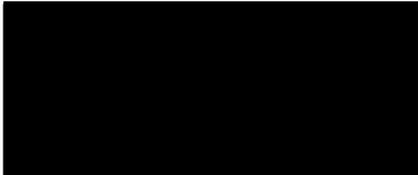
On 18 November 2010, Claimant presented an Optional OSLTF Claim Form to the NPFC, claiming \$58,604.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

³ Optional OSLTF Claim Form.
09/13/11

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a Claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The documentary evidence presented by the Claimant indicates that his loss resulted from the six month deepwater drilling moratorium. The claim is denied because the alleged loss in the amount of \$58,604.00 is not due to the injury, destruction, or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil, but because a determination was made and a directive issued by the Department of Interior to enact a deepwater drilling moratorium to implement new safety requirements.

Claim Supervisor:



Date of Supervisor's Review: 2/7/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890 DWHZ
N10036-0113
04 February 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

RE: Claim Number: N10036-0113

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0113 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0113.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000475

CLAIM SUMMARY / DETERMINATION FORM

Date : 04 February 2011
Claim Number : N10036-0113
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [REDACTED]
Amount Requested : \$16,800.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 18 November 2010 [REDACTED] (Claimant), presented an Optional Oil Spill Liability Trust Fund Claim Form, claiming loss of profits and earnings in the amount of \$16,800.00 as a result of the Deepwater Horizon incident.¹

Claimant tutors students in two learning centers located in [REDACTED] and [REDACTED], Louisiana. She tutors in a number of subject areas and claims that the overall economic impact of the Deepwater Horizon incident has caused her to lose students resulting in decreased income.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2702(a), a responsible party is liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in § 2702(b) of OPA.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated removal costs and damages.

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6) provide that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Lost Profits and Impairment of Earning Capacity Claim Requirements

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury,

¹ Optional OSLTF Claim form dated 16 November 2010.

destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the oil spill also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the oil spill must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the oil spill must be established.

Under 33 CFR § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the oil spill;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the oil spill; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted following documentation:

- An Optional NPFC OSLTF Claim Form, dated 16 November 2010.
- Letters provided by Claimant's employers [REDACTED] confirming prior employment.
- Daily income for 01 Jan 2010 through 30 July 2010.
- Letter from Claimant dated 16 November 2010 explaining circumstances of claim.
- Claimant's Individual Income Tax Return for 2009.
- Bank Statements with Regions Bank for 13 March 2010 through 11 May 2010.
- Louisiana State Driver's License.
- Claim denial letter by GCCF dated 09 Nov 2010.

Claimant describes that she lost \$2,500 per month in lost revenue from tutoring students in the Greater New Orleans Area. Working through The Tutoring Center located in [REDACTED] LA, since October 2009 and [REDACTED] in New Orleans, LA, from March to August 2010 and again since October 2010, Ms. [REDACTED] tutored in Algebra I & II, the ACT, Statistics, Calculus and Arabic I & II. Ms. [REDACTED] also worked part time as a student worker at the [REDACTED]. Her claim relates only to loss of revenue relating to her tutoring.

Claimant's Tax Return for 2009 indicates income of \$10,166 for all sources. The sum of Claimant's daily income spreadsheets provided for January through July of 2010 is \$10,180 for income and \$2,320 for expenses.

Claimant presented an Emergency Advance Payment (EAP) Claim to the GCCF on 26 October 2010 and was issued Claimant ID # [REDACTED] and was issued EAP Claim # [REDACTED]. On 09 November 2010, the GCCF denied her EAP claim. The NPFC independently confirmed that Claimant filed a claim with GCCF and that it was denied.²

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6) provide that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation submitted by the Claimant.

The Claim is denied because the evidence presented by the Claimant does not establish either an economic loss or that the alleged loss was the result of the Deepwater Horizon incident. For example, Claimant's Tax Return for 2009 indicates income of \$10,166 for all sources for the year. The sum of Claimant's daily income spreadsheets provided for January through July of 2010 is \$10,180 for income and \$2,320 for expenses, showing an increase in salary over the prior year. Additionally, Claimant has provided no information on how her damages were caused by or resulted from the Deepwater Horizon oil spill incident. Accordingly, her claim is denied.

Claim Supervisor: [REDACTED]

Date of Supervisor's review: 2/7/11

Supervisor Action: DENIAL APPROVED

Supervisor's Comments:

² GCCF Report to United States Coast Guard (as of 12/21/2010), page 7.
09/13/11

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937

VIA CERTIFIED MAIL

Number: [REDACTED]
[REDACTED]

5890/DWHZ
Claim # N10036-0114

06 January 2011

Re: Claim Number: N10036-0114

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0114 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0114.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely
[REDACTED]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	05 January 2011
Claim Number	N10036-0114
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$23,940.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants continue.

CLAIM AND CLAIMANT

On 18 November 2010 Mr [REDACTED] (Claimant) presented a claim to the NPFC seeking

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08

\$23,940.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident. The Claimant is a Deckhand for [REDACTED] and is claiming reduced earnings as a result of the moratorium.

Claimant was employed by [REDACTED]. Claimant is a Deckhand and works for a marine transportation group responsible for supplying oil rigs with deck cargo, water, fuel and other operationally necessary items. The Claimant asserts that as a result of the Deepwater Horizon incident, his work hours were reduced by approximately half, though he was never furloughed or terminated from his position. Claimant is requesting compensation for lost earnings capacity as a result of the moratorium.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;

- (c) Potential income from alternative employment or business not undertake, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented an Optional OSLTF Claim Form on 18 November 2010. Claimant provided income tax return Form 1040 and W2 for the year 2009 as well as various pay stubs from the latter months of 2010. Claimant also provided a letter written by the Chairman and CEO of [REDACTED] and addressed to the employees of [REDACTED] LLC citing that explosion, oil spill and the moratorium. Claimant's emergency advance payment claim submission to the GCCF, with identification number [REDACTED] was denied. Claimant presented a letter dated 19 August 2010 from [REDACTED], Secretary of Human Resources, which mentions the potential indefinite schedule change and reduction in shifts.

B. NPFC Determination

Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The Claimant's employer was contacted on 07 December 2010. [REDACTED] Director of Human Resources for [REDACTED] LLC advised that the decision to "cut back" hours on every vessel began in January 2010 because there were no drilling jobs. That reduction in hours from twenty-eight (28) days on/fourteen (14) days off to fourteen (14) days on/fourteen (14) days off was intended to last until June 2010 when four new boats would be brought on-line and additional crews would be required.⁶ The moratorium changed that and their charters with companies such as Shell were postponed, still awaiting Shell's permits.⁶ This cut back allowed [REDACTED] to keep trained people on staff while giving [REDACTED] the ability to respond quickly, when necessary. All documentary evidence provided, in conjunction with the reasons provided by [REDACTED] indicates that Claimant's loss of hours occurred initially due to a business decision, and has continued subsequently due to the six month deepwater drilling moratorium.⁶ The Claimant's loss, therefore, did not occur because there was an oil spill in the Gulf of Mexico, but because a determination was made by the employer and a directive issued by the Department of the Interior to enact a six month moratorium to implement new safety requirements.² As a result, the Claimant's claim is considered a consequence of a business decision and the moratorium, not the oil spill, and is not compensable under OPA.

² U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject *Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf*. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

⁶ See, Telephone Summary from conversation which occurred between [REDACTED] and [REDACTED] (NPFC) on 07 December 2010 at 1130.

Claim Supervisor: [REDACTED]

Date of Review: 1/6/11

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937

5890/DWHZ
Claim # N10036-0115
28 December 2010

Email:
[REDACTED]

[REDACTED]
Re: Claim Number: N10036-0115

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0115.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Claims Manager
U. S. Coast Guard

Encl: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	28 December 2010
Claim Number	N10036-0115
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$88,345.20

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 17 November 2010, [REDACTED] (Claimants) presented a claim for lost profits and earnings in the amount of \$88,345.20 to the National Pollution Funds Center (NPFC) for reimbursement. Claimants are a loss of profits and earnings based on their inability to sell their real estate properties as a result of the Deepwater Horizon incident.

Claimants provided information to the NPFC suggesting they had ownership of six properties, five land parcels and one residential property that were held as investments. The subject properties were purchased at various dates ranging from December 2008 through April 2010. Four out of the six properties were purchased during November and December 2009. Claimants assert the properties were purchased as investments and were intended to be re-sold; including selling the properties through seller financed sales agreements to generate interest income. Claimants stated they purchased the properties as a means to generate income for their retirement. Claimants allege they were not able to sell the properties therefore they are making a claim for their continued cost of property ownership. Claimants' request for \$88,345.20 includes the cost of property taxes, homeowner's association dues, and the potential interest that could have been earned if the properties were sold under owner financed agreements.

The Claimants are not involved in the real estate industry as real estate agents, brokers or property developers. In addition, the Claimants are not making a claim arising from physical damage to the real estate properties.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury,

destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support their claim, the Claimants submitted the NPFC OSLTF Claim Form dated 17 November 2010, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF), and miscellaneous supporting documents including tax returns from 2007 through 2009 and HUD-1 settlement statements to support the original purchase of the subject properties. The GCCF assigned claimant identification # [REDACTED]. On 26 October 2010, the GCCF issued a denial to the Claimants stating that the type of loss claimed was not being considered.

Claimants assert that they were not able to sell the property due to reduced interest in the properties from prospective buyers resulting from the Deepwater Horizon incident. The Claimants assume that but for the Deepwater Horizon incident; they would have been able to sell all of the subject properties. Claimants maintain that the property was not sold and therefore they are incurring additional expenses to retain the property and are claiming potential interest that could have been generated from property sales, had the properties actually been sold and under the terms of an owner financed transaction.

B. NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Claimants have not provided evidence that their real estate property sustained any physical damages as a result of the Deepwater Horizon oil spill. They assert that they suffered a loss of profits or earning capacity in the total amount of \$88,345.20 related to the inability to sell various investment properties. The Claimants have not sold the properties and retain ownership of the properties in the same manner as prior to the Deepwater Horizon oil spill. The Claimants have not indicated that they are real estate brokers, agents, developers or in the business of transacting real estate properties as a source of income. The Claimants' submission is not supported as a loss of profits or earning capacity.

Claimants have not provided evidence that they had listed the properties for sale at any time prior to or after the Deepwater Horizon incident. Claimants have not yet sold the subject properties for a sum less than the original purchase prices. As a result, any loss that they might experience remains prospective. The Claimants also assert that they have incurred additional expenses to maintain the properties. Claimants note in their claims submission that none of the properties they intended to sell during 2010 are their primary residence and they incurred and paid these expenses prior to the oil spill. These additional expenses were not the result of the oil spill.

Under 33 CFR §§ 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. As described above, the Claimants, [REDACTED] have failed to meet their burden and their claim is denied.

Claim Supervisor: [REDACTED]

Date of Review: 12/28/10

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

E-mail:

Fax: 202-493-6937

5890

2/2/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0116

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0116 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0116.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000488

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 2, 2011
Claim Number	: N10036-0116
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$10,656.00

FACTS:

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 19, 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$10,656.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from employment as a caretaker of children and elders in Mobile, Alabama as a result of the Deepwater Horizon incident.

The Claimant filed a claim with the GCCF and was given claim # [REDACTED]. The Claimant provided a denial letter from the GCCF dated October 28, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form received November 19, 2010
- GCCF denial letter dated October 28, 2010
- Four (4) pay stubs from [REDACTED] Sitting Service
- Hardship letter from [REDACTED] Sitting Service
- Alabama Unemployment Compensation Agency Notice of Determination dated November 29, 2009
- Hardship letter from [REDACTED]
- 2009 I.R.S. Form 1090A
- 2009 I.R.S. Form 8812
- Hardship letter from [REDACTED] LLC

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon Incident. On December 15, 2010, the NPFC mailed a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicated the claim. On December 22, 2010 the Claimant confirmed that she received the request for additional information and asked a few questions about the information needed. On January 14, 2011 the Claimant contacted the NPFC stating that she lost the letter so the NPFC emailed the Claimant another copy. The documentation requested consisted of the following:

1. Income Tax Return Filings for 2008 and 2009 including all attachments, Schedule C's, W-2's and form 1099's;
2. Provide copies of pay stubs, pay checks and earnings statements for all employment held for the following period: 2009, January 1, 2010 – February 7, 2010, and March 8, 2010 – the current period in addition to the paystubs already provided.

The NPFC also requested the Claimant answer the following questions:

1. Describe your employment history from 2008 through the current period.
 - a. Include a list of your employers with start and end dates.
 - b. Include a description of dates worked, your position held and job duties.
2. Have you been able to find alternative employment since your hours were reduced? If so, describe the jobs and positions held.
3. Identify all jobs that you applied for during 2010. Provide the name of the company, the type of business and what type of position you applied for
4. If you have received unemployment benefits, identify the periods of time when you received benefits and the amounts received during 2009 and 2010.
5. Describe any other source of employment that were available to you in 2010
6. Describe your current employment/work status
7. Explain how the claimed lost profits were estimated
8. Identify and period(s) of time during 2009 and 2010 when you were not working

The Claimant has not provided additional documents nor answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor  For

Date of Supervisor's review: 2/2/11

Supervisor Action: *Denial approved*

U.S. Department
of Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
Arlington, VA 22203-1804
Staff Symbol: (CN)
Phone: [REDACTED]
E-mail: [REDACTED]

16480

January 10, 2011

CERTIFIED MAIL Number: [REDACTED]

RE: Claim Number: N10036-0117

Dear [REDACTED]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part U.S.C. §136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing for varying periods of time. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On August 23, 2010, the Gulf Coast Claims Facility (GCCF), a representative for the RP, began accepting and adjudicating individual and business claims on behalf of BP.

Facts of Your Claim

On August 23, 2010, you presented a claim for Emergency Advance Payment to the GCCF, which was denied on October 28, 2010. On November 19, 2010, you presented your claim to the NPFC for lost subsistence use of natural resources following the Deepwater Horizon incident. You seek \$13,144.20 as damages for lost subsistence use, determined as the cost to replace fish that you claim you would have caught and used for subsistence food during a six month period if the spill had not occurred. You used quotes

from three seafood companies that do business over the internet to determine the replacement cost.

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents. 33 U.S.C. § 2712(a)(4). Damages include loss of subsistence use of natural resources. 33 U.S.C. § 2702(b)(2)(C). The regulations at 33 CFR Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the (RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). The NPFC finds that your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC by fax on November 19, 2010 included a letter with the following supporting documents: a letter from the GCCF dated October 28, 2010 denying your claim for Emergency Advance Payment (Claimant Identification Number: [REDACTED]), citing lack of proof of subsistence use and/or damages incurred due to loss of subsistence use of natural resources injured or destroyed as a result of the spill; three estimates for seafood from companies that sell and ship seafood from outside the Gulf region, which you assert represent similar types and quantities to those you regularly harvested for subsistence purposes; an affidavit from a witness testifying to your

subsistence use of natural resources from the Gulf of Mexico; unemployment verification for the benefit period May 30, 2010 to May 29, 2011, from the Mississippi Department of Employment Security; a fishing closure advisory for Mississippi state waters; various blog and news articles about the spill; and a copy of a recreational fishing license from the state of Mississippi that appears to have been issued in August of 2010¹.

NPFC Determination

Your claim for lost subsistence use is denied because you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). While you provided a copy of your recreational fishing license from August 2010, you have not provided sufficient evidence for the NPFC to determine whether you had a valid fishing license for the time period prior to the incident, and documentation necessary to demonstrate lawful fishing activities for this period. Moreover, the period of your claimed loss exceeds the closure period in your area. Therefore, your loss of subsistence use for a part of the period for which you claim a loss did not result from the Deepwater Horizon oil spill but from your choice not to fish in your area. Additionally, while you included a fishing closure advisory for Mississippi state waters in your documentation, you have not shown that you attempted to mitigate subsistence use losses, to the extent that they occurred, by fishing in locations that were not closed to fishing. Lastly, the internet-based cost estimates you provided do not reflect the reasonable replacement cost of the natural resource for which you seek compensation nor did you provide evidence that you incurred any replacement costs.

Request for Reconsideration

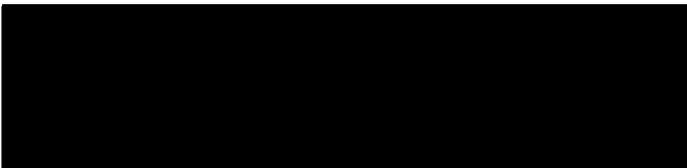
Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0117) to:

¹ The copy of the fishing license provided to the NPFC is illegible. The NPFC cannot definitively determine to whom and when the license was issued.

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [REDACTED].



U.S. Coast Guard

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

5890
6/02/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0118

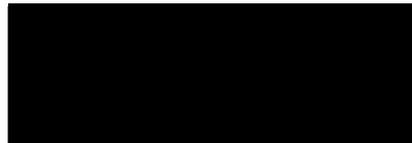
Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0118 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,



Chief, Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-0118
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$465,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT:

On 24 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC), seeking \$465,000 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant owns and operates [REDACTED] a home furniture retail store located in [REDACTED]. Claimant asserted that the business draws customers from the [REDACTED] area who are largely involved in the local maritime and tourist industries. Claimant further asserted that his customers were financially impacted by the oil-spill, which in turn, caused a marked reduction in the Claimant's sales.

The claimed loss of \$465,000 encompasses two distinct components: \$65,000 in lost 2010 profits, incurred from the time of the oil-spill until the date of submission¹, and \$415,000 which represents "an estimate for 3 or 4 years of damages."² Claimant did not provide an itemization to breakdown the claimed losses any further.

REQUEST FOR RECONSIDERATION:

On March 17, 2011, the Claimant sent a request for reconsideration to the NPFC stating he would like the NPFC to reconsider his claim. Based on Claimant's "Calculation of Lost Profits" submitted with his request for reconsideration, the new sum certain appears to be \$39,550.00 although Claimant did not specifically reduce the amount nor did he address any of the other original claimed amounts in his request for reconsideration.

The NPFC denied the claim originally on February 22, 2011 because based on a comparison of the gross monthly sales between May 2008 and April 2010, the NPFC determined that Uniquely

¹ Fax from Claimant to NPFC in response to request for additional information, dated 29 December 2010. This sum also apparently encompasses lost sales that would have originated from a second location that Claimant intended to open at a local shopping mall.

² Fax from Claimant to NPFC providing information about the nature of his claim, dated 12 November 2010.

██████ year over year monthly sales have decreased by an average of 11.19%. Expected total monthly sales for May through September 2010 were extrapolated based on an 11.19% reduction in 2009 sales over the same period. Actual monthly sales were subtracted from the expected monthly sales, and then reduced by the saved cost of sales, to determine potential lost profits. In total, the potential lost profits for May through September 2010 equated to \$17,537.00.

As previously discussed, the Claimant had already received \$27,623.20 from the RP, exceeding the compensable loss determined by the NPFC. With regard to the Claimant's loss of profits stemming from the inability to open a new location at the North Shore Square, the Claimant had not established a vested right in prospective sales from this property location either through contract or detrimental reliance.

The \$415,000 in damages that represented the Claimant's estimated lost future sales over the next three or four years were also not compensable under OPA and the accompanying regulations at 33 C.F.R. § 136.235, which stipulate that a Claimant may only recover known and proven lost profits at the time the claim is made. Because Claimant failed to meet his burden to demonstrate lost profits exceeding the compensation he had already received from the RP, the NPFC denied the claim.

On reconsideration, the Claimant only presented a handwritten rebuttal letter dated March 9, 2011 and the above-mentioned "Calculation of Lost Profits," a handwritten calculation sheet of his lost profits. The letter stated that the Claimant does not agree with the NPFC's denial determination for several reasons. The Claimant asserted that the NPFC's initial denial determination was not based on Generally Accepted Accounting Principles (GAAP). The Claimant asserted that the NPFC did not provide any reference to accounting authorities regarding the methodology the NPFC used to determine the amount of the Claimant's lost profits. The Claimant stated that the NPFC's determination is overly simplistic and that the NPFC did not account for the Claimant's vastly improved profit margins.

The Claimant further asserted that specifically, the NPFC determined a 11.19% sales decline on a two year fiscal basis (May 2008 through April 2010) and that the two year fiscal moving average was then applied to a specific five month period in a single year. The Claimant stated that the cost of sales in the NPFC's determination was taken from the 2009 calendar year while ignoring the 21.03% reduction in the cost of sales over the same time prior as the sales decline used in the NPFC's determination. The Claimant further stated ... "In other words in the NPFC determination I am penalized for 11.19% drop in sales while the cost of sales was reduced twice as fast making profits much greater – this scenario is totally ignored by the NPFC determination."

Claimant asserted that in July 2009, they were able to transform the business. January to March 2010, the Claimant stated he booked as much profit as he did the entire year of 2009. The Claimant stated that none of this vast improvement was calculated into the NPFC determination. The Claimant submitted a chart on reconsideration that he stated is far more accurate than the NPFC's determination because it also includes cost of sales in the equation which is calculated the same way the NPFC calculated the decline in sales. The Claimant stated that the chart includes more numbers and a "strict apples to apples comparison, not the apples to oranges used in the NPFC determination."

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration which was received by the NPFC on March 17, 2011. To support his request for reconsideration, the claimant provided a letter making his reconsideration argument. The only other information provided by the Claimant on reconsideration was a handwritten chart itemizing his calculation of lost profits which he asserts as \$39,550.00. No other documentation has been provided and the Claimant made no additional comments regarding the difference of his requested sum certain of \$465,000.00 and the \$39,550.00 noted in his request for reconsideration.

NPFC Determination on Reconsideration

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity and that the loss was due to the destruction or injury to real or personal property or natural resources. The NPFC considered all the documentation submitted by the Claimant. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d).

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

The NPFC performed a complete review of the documentation presented by the Claimant. After the NPFC performed another review of the actual financials and income tax returns provided, the NPFC created five (5) tables that are found in Enclosure 1. The tables are based solely on information and documentation submitted by the claimant. These tables summarize the comparable financial documentation considered by the NPFC on reconsideration. Following is a breakdown on what each table represents:

1. Table 1 is an itemization of the Actual Sales (revenues) as presented by the Claimant via ██████ Statements by month for 2008, 2009 and 2010 (actual sales for 2008, 2009, and 2010 show a steady decline from \$417,297.12 in 2008, \$245,167.48 in 2009 and \$160,580.75 in 2010);
2. Table 2 is an itemization of the Cost of Sales (expenses) as presented by the Claimant via ██████ Statements by month for 2008, 2009 and 2010 (actual cost of sales for 2008, 2009, and 2010 show a steady decline from \$265,028.89 in 2008, \$47,630.65 in 2009 and \$97,019.06 in 2010);
3. Table 3 is an itemization of the Operating Expenses (expenses) as presented by the Claimant via ██████ Statements by month for 2008, 2009 and 2010 (actual operating expenses for 2008, 2009, and 2010 show a decline from 2008 to 2009 and a slight rise from 2009 to 2010 as follows: \$241,620.49 in 2008, \$62,532.15 in 2009 and \$88,402.00 in 2010);
4. Table 4 is an itemization of the Net Profit/Loss for 2008, 2009 and 2010 as presented by the Claimant via ██████ Statements by month. The NPFC took each month's revenues less the total expenses (as presented by the Claimant) to arrive at the overall annual Profit/Loss by year. It is important to note that the figures associated with 2010 are not accurate since the Claimant failed to provide ██████ Statements for October and December 2010. Regardless, with only using documentation presented by the Claimant, Table 4 reflects business losses each as \$(89,352.26) for 2008, \$(35,581.63) for 2009 and \$(21,680.50) for 2010;

5. Table 5 is an itemization of what the Claimant's Income Tax Returns for 2008 and 2009 show as reported on the Schedule C provided versus what the ██████ Statements show provided by the Claimant. It is important to note that the ██████ Statements do not match the alleged Income Tax Returns; therefore either the ██████ Statements are inaccurate or the Income Tax filings for each are inaccurate. Since the Claimant's financial comparables are in direct conflict with each other, Claimant has not proven a defensible or convincing loss of profits, i.e., \$39,550.00.

Table 4 of Enclosure 1 clearly shows based on the Claimant's ██████ Statements that his overall business had a net operating loss every year since 2008. Furthermore, Table 4, taken directly from the Claimant's ██████ Statements is in conflict with Table 5, what was reported to the IRS via the Claimant's Schedule C line 31 of each year's Income Tax reporting for 2008 and 2009 (2010 tax return has never been provided by the Claimant).

The Claimant reported a net loss of profits for 2008 via his Income Tax Return as \$(34,159.00) yet his own ██████ Statements for the same period documented an annual loss of \$(44,290.78). The Claimant reported a net profit for 2009 via his Income Tax return as \$16,390.00 yet his own ██████ Statements for the same period documented an annual profit of \$14,377.60. Since the Claimant has failed to provide a copy of his 2010 Income Tax Return and two months of ██████ Statements for October 2010 and December 2010, there is no way for the NPFC to determine if a loss of profits actually existed in 2010, or if there was a loss of profits, the amount of that loss since there are noted disparities in the Claimant's ██████ Statements vice alleged Income Tax Returns.

Additionally, the Claimant has failed to establish that any loss is due to the Deepwater Horizon incident because a reduction in his actual sales began at least ten months prior to the oil spill. Therefore, the Claimant has failed to demonstrate that his reduced business is a direct result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil as opposed to other economic factors.

Lastly, it is important to note that the Claimant has received compensation from the RP in the amount of \$27,623.20 which was based on the evidence presented by the Claimant to the RP. The NPFC determines that the Claimant has been more than compensated by the RP since the Claimant's documentation presented to the NPFC does not support a loss of profits.

The NPFC again denies the claim because (1) the Claimant has failed to demonstrate that his alleged loss of profits was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil and (2) the Claimant failed to demonstrate a loss of profits in the amount alleged, (3) the Claimant has failed to support the alleged amount of his loss claimed due to conflicting within his own financial documentation making the financials questionable at best and (4) the Claimant has been compensated by the RP for alleged losses not founded by the NPFC:

This claim is denied upon reconsideration.

Claim Supervisor:



Date of Supervisor's review: *6/2/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments:

Enclosure 1

Table 1

	Actual Sales for 2008	Actual Sales for 2009	Actual Sales for 2010
January	\$ 29,553.11	\$ 32,705.65	\$ 25,832.62
February	\$ 31,339.88	\$ 32,794.86	\$ 49,238.23
March	\$ 38,123.22	\$ 47,469.69	\$ 34,595.18
April	\$ 31,681.95	\$ 33,054.39	\$ 29,387.51
May	\$ 29,687.08	\$ 42,263.41	\$ 17,386.64
June	\$ 44,893.75	\$ 30,637.57	\$ 23,111.41
July	\$ 40,356.03	\$ 37,169.00	\$ 15,776.28
August	\$ 38,561.03	\$ 24,523.68	\$ 25,735.92
September	\$ 24,139.93	\$ 23,918.60	\$ 22,975.04
October	\$ 35,199.48	\$ 27,694.90	
November	\$ 28,856.54	\$ 29,971.97	\$ 55,595.46
December	\$ 44,905.12	\$ 28,988.35	
total	\$ 417,297.12	\$ 245,167.48	\$ 160,580.75

Table 2

	Cost of Sales 2008	Cost of Sales 2009	Cost of Sales 2010
January	\$ 24,351.59	\$ 25,837.72	\$ 16,947.51
February	\$ 37,474.00	\$ 15,373.31	\$ 17,355.51
March	\$ 38,123.22	\$ 18,938.32	\$ 13,777.95
April	\$ 13,506.94	\$ 24,196.36	\$ 17,217.32
May	\$ 10,758.87	\$ 21,293.84	\$ 18,020.95
June	\$ 27,505.74	\$ 12,003.27	\$ 14,171.28
July	\$ 19,721.97	\$ 30,456.50	\$ 11,162.38
August	\$ 22,798.39	\$ 9,631.58	\$ 7,276.44
September	\$ 11,995.21	\$ 13,326.14	\$ 21,607.37
October	\$ 25,144.82	\$ 11,930.73	
November	\$ 14,604.19	\$ 13,104.79	\$ 24,780.64
December	\$ 19,043.95	\$ 9,268.99	
total	\$ 265,028.89	\$ 47,630.65	\$ 97,019.06

Table 3

	Operating Expenses 2008	Operating Expenses 2009	Operating Expenses 2010
January	\$ 16,598.35	\$ 23,441.76	\$ 13,987.76
February	\$ 21,636.73	\$ 17,471.38	\$ 24,908.65
March	\$ 21,381.44	\$ 22,445.74	\$ 15,981.54
April	\$ 18,257.11	\$ 21,197.19	\$ 15,717.49
May	\$ 20,119.53	\$ 21,525.13	\$ 5,733.46
June	\$ 21,017.90	\$ 25,065.58	\$ 22,321.14
July	\$ 16,623.80	\$ 19,258.55	\$ 17,179.38
August	\$ 23,903.61	\$ 8,474.67	\$ 12,617.75
September	\$ 17,501.06	\$ 19,775.77	\$ 16,349.75
October	\$ 22,537.72	\$ 9,676.25	
November	\$ 12,651.05	\$ 16,144.19	\$ 14,200.52
December	\$ 29,392.19	\$ 16,935.94	
total	\$ 241,620.49	\$ 62,532.15	\$ 88,402.00

Table 4

	2008 Profit/Loss	2009 Profit/Loss	2010 Profit/Loss
January	\$ (11,396.83)	\$ (16,573.83)	\$ (5,102.65)
February	\$ (27,770.85)	\$ (49.83)	\$ 6,974.07
March	\$ (21,381.44)	\$ 6,085.63	\$ 4,835.69
April	\$ (82.10)	\$ (12,339.16)	\$ (3,547.30)
May	\$ (1,191.32)	\$ (555.56)	\$ (6,367.77)
June	\$ (3,629.89)	\$ (6,431.28)	\$ (13,381.01)
July	\$ 4,010.26	\$ (12,546.05)	\$ (12,565.48)
August	\$ (8,140.97)	\$ 6,417.43	\$ 5,841.73
September	\$ (5,356.34)	\$ (9,183.31)	\$ (14,982.08)
October	\$ (12,483.06)	\$ 6,087.92	\$ -
November	\$ 1,601.30	\$ 722.99	\$ 16,614.30
December	\$ (3,531.02)	\$ 2,783.42	\$ -
total	\$ (89,352.26)	\$ (35,581.63)	\$ (21,680.50)

Table 5

	From 2008 Income Tax Return	From 2009 Income Tax Return	From 2008 P&L statements	From 2009 P&L statements
Schedule C Line #1 Gross Sales	\$ 417,297.00	\$ 391,192.00	\$ 417,297.12	\$ 245,167.48
Schedule C Line #4 Cost of Goods	\$ 240,449.00	\$ 197,915.00	\$ 241,620.49	\$ 62,532.15
Schedule C Line #31 Declared Net profit or (loss)	\$ (34,159.00)	\$ 16,390.00	\$ (44,290.78)	\$ 14,377.60

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890
3/22/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0119

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0119, involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0119.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



Claims Manager
U.S. Coast Guard

09/13/11

FOIA2001-3380-0000503

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 21, 2011
Claim Number	: N10036-0119
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$80,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On November 30, 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim on behalf of her company, [REDACTED], in the amount of \$80,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that [REDACTED] lost wages as a result of the Deepwater Horizon incident.

As we understand it, [REDACTED] is a commercial fishing business that started in 2004. In 2009, the company expanded to include packaging and selling crabs.

The Claimant stated that she filed a claim with the GCCF and was compensated \$1,000.00. The GCCF recently updated the Claimant's claim showing that the Claimant has been compensated a total of \$31,600.00. The GCCF website shows that BP paid the Claimant \$21,000.00 and the GCCF later paid the Claimant \$10,600.00.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any Claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the Claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a Claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the Claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the Claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a Claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, the Claimant submitted the following documentation:

1. Optional OSLTF Claim Form; dated November 29, 2010;
2. Claimant's explanation of the claimed amount;
3. Claimant's ID;
4. Business License;
5. Receipts for the purchase of equipment due to relocation, in May 2010 and June 2010;
6. Monthly sales for August 2007 – December 2007, 2008, 2009, January 2010 to August 2010;
7. 2007, 2008, 2009 Income Tax Returns;
8. GCCF's calculation of \$1,000.00 payment;
9. Pictures of areas fished;
10. Commercial fisherman license.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on financial documentation provided by the Claimant, the NPFC's analysis consists of the following:

CALCULATION OF POTENTIAL LOST NET PROFITS

Description	Percent to Sales (A)	2010						
		May	June	July	August	September	October	Total
Projected Sales (2009 Actual Sales)		\$8,228	\$7,014	\$6,397	\$8,383	\$13,640	\$5,832	\$49,494
Less: Actual 2010 Sales (B)		6,843	14,288	12,386	5,989	0	0	39,506
Lost Sales	100.00%	1,385	(7,274)	(5,989)	2,394	13,640	5,832	9,988
Less: Cost of Goods Sold	10.42%	144	(758)	(624)	250	1,422	608	1,042
Lost Gross Profit		1,241	(6,516)	(5,365)	2,144	12,218	5,224	8,946
Less: Saved Expenses								
Bait	12.77%	177	(929)	(765)	306	1,742	745	1,276
Fuel	10.30%	143	(749)	(617)	247	1,405	601	1,030
Deck hand	8.96%	124	(652)	(536)	214	1,222	522	894
Total Saved Expenses		444	(2,330)	(1,918)	767	4,369	1,868	3,200
TOTAL LOST NET PROFITS		\$797	(\$4,186)	(\$3,447)	\$1,377	\$7,849	\$3,356	\$5,746
Less: Prior Payments From BP								\$31,600
TOTAL								(\$25,854)

NOTES:

- (A) The percentages are based on 2009 Income Tax Return.
- (B) Claimant fished at WL&F area 706 out of Venice which closed on August 26th 2010. We are not aware if the area has reopened.
The Claimant fished at the alternate area 207 temporarily. We have not been provided with the date range.

The Claimant stated that she was previously crabbing in area 706 but went to 207 and was able to continue catching crab until August 2010. It appears that the Claimant was able to exceed his prior year's sales during the months of June and July 2010.

The claim is denied because the evidence provided by the Claimant, as evidenced above, does not demonstrate that the loss of profits claimed exceeds the amount previously compensated by the RP. Therefore, the NPFC has determined that the Claimant has failed to demonstrate a loss larger than the compensation already received.

Claim Supervisor 

Date of Supervisor's review: 3/21/11

Supervisor Action: *Denial approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

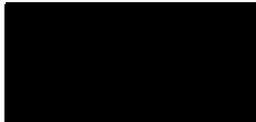
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

5890
01/18/2011

VIA CERTIFIED MAIL

Number: [REDACTED]



RE: Claim Number: N10036-0120

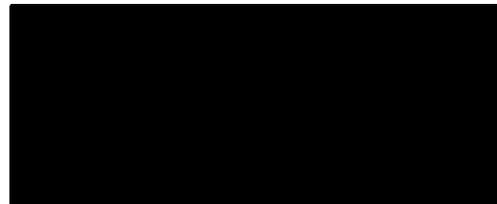
Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0120 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0120.

Mail reconsideration requests to:

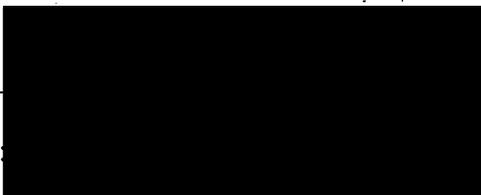
Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



U. S. Coast Guard
Claims Manager

Encl: Claim Summary / Determination Form

Claim Supervisor



Date of Review: *1/14/11*

Supervisor's Comments: *Denial approved*

CLAIM SUMMARY / DETERMINATION FORM

Date	10 January 2011
Claim Number	N10036-0120
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$5,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$5,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] is asserting that due to the oil spill her hours as a cleaner and cook at the [REDACTED] were decreased. She subsequently resigned from her position to search for other employment but was unable to find work and remained unemployed.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support her claim, the Claimant presented the Optional NPFC OSLTF Claim Form dated November 24, 2010. The GCCF confirmed that Ms. Chambers' claim was submitted on October 18, 2010 and had been denied. GCCF issued claimant identification number # [REDACTED] [REDACTED] [REDACTED] also submitted a handwritten letter describing her situation along with a document dated September 9, 2010 which confirmed that she resigned from her previous job voluntarily. Various earnings statements and tax documents were also presented.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the alleged loss in the amount of \$5,000 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Claimant's alleged loss of profits is the result of her decision to resign from her position.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CN)

Fax: 202-493-6937
5890

Claim # N10036-0121
19 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

RE: Claim Number: N10036-0121

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990 (OPA 90) and 33 C.F.R. Part 136, denies payment on the claim number N10036-0121 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0121.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000511

CLAIM SUMMARY / DETERMINATION FORM

Date : 19 January 2011
Claim Number : N10036-0121
Claimant : ██████████
Type of Claimant : Private (US)
Type of Claim : Subsistence Use & Loss of Profits
Claim Manager : ██████████
Amount Requested : \$3,900.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, ██████████ (claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$2,000.00 in subsistence use and \$1,900.00 in natural resources costs and damages.

Claimant is a recreational saltwater fisherman who fishes the coastal areas of Mississippi. He asserts that he fishes four days out of the week and three weeks out of the month. Claimant states that he relies on this fishing to feed his family and make some money on the side by selling fish to restaurants and individuals on or near the Mississippi coast.

Claimant alleges that since the Deepwater Horizon incident on April 20, 2010, he has gone six months without fishing "because the area I spend time fishing at grounds [sic] were closed, because it was affected by the oil spill pollution."¹ Claimant seeks the value of the fish he has had to purchase to feed his family (loss of subsistence use) and the value of his lost business from his inability to fish as a result of the closure of fishing grounds (lost profits and earning capacity).²

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Covered removal costs and damages under OPA include, but are not limited

¹ Claimant's email to GCCF requesting a reevaluation of her claim, dated 27 October 2010.

² Claimant election of \$1,900.00 in natural resource costs and damages is interpreted as a claim for lost profits and earning capacity in light of his supporting documentation. An individual in a personal capacity cannot claim natural resources costs and damages. See 33 C.F.R. §136.207(a).

to, natural resources damages, damages for loss of subsistence use of natural resources, and damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources. 33 U.S.C. § 2702(b)(2)(A), (b)(2)(C), and (b)(2)(E). Under 33 U.S.C. § 2702(b)(2)(A), natural resource damages are only recoverable by a United States trustee, a State trustee, and Indian tribe trustee, or a foreign trustee. Damages for loss of subsistence use and loss of profits and impairment of earning capacity are recoverable by any claimant establishing that their damages resulted from the incident.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6), provides that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Subsistence Use Loss Claim Requirements

Pursuant to the claims regulations at 33 C.F.R. §§136.219-223, each claim for loss of subsistence use of natural resources must—

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Lost Profits and Earning Capacity Claim Requirements

One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- 1) That real or personal property or natural resources have been injured, destroyed, or lost.
- 2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- 3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

- 4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- 1) All income resulting from the incident;
- 2) All income from alternative employment or business undertaken;
- 3) Potential income from alternative employment or business not undertaken, but reasonably available;
- 4) Any saved overhead or normal expenses not incurred as a result of the incident; and
- 5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation to the NPFC: the NPFC OSLTF Claim Form dated 08 November 2010; an email to GCCF requesting a reevaluation of his claim, (3) three pictures of beached fish; (3) three receipts for the purchase of fish by [REDACTED] a copy of [REDACTED] resident saltwater fishing license; a copy of [REDACTED] envelope to NPFC; a receipt dated 4-9-10 to [REDACTED] for sale of seafood; and a receipt dated 3-5-10 for sale of seafood.

Claimant initially filed for an Emergency Advance Payment through GCCF on 01 September 2010 for his loss of subsistence use of natural resources claim. GCCF assigned Claimant ID [REDACTED] and GCCF Claim # [REDACTED]. By letter dated 17 September 2010, the GCCF requested additional supporting documentation from claimant on his claim. By letter dated 22 October 2010, GCCF denied claimant's claim for failure to "submit proof of subsistence use/and or proof of damages incurred due to the loss of subsistence of natural resources injured or destroyed as a result of the spill."³ Based upon his denial by the GCCF, Claimant presented his claim to the Fund on 24 November 2010 claiming subsistence use and natural resources damages.

Claimant alleges that since the Deepwater Horizon incident on 20 April 2010, he has gone six months without fishing "because the area I spend time fishing at grounds [sic] were closed, because it was affected by the oil spill pollution."⁴ Claimant seeks \$2,000.00 as damages for lost subsistence use, determined as the cost to replace fish that he claims he would have caught and used for subsistence food during a six month period if the spill had not occurred. He also seeks \$1,900.00 in lost profits and earning capacity, which represents the value of his lost business from his inability to fish as a result of the closure of fishing grounds.

³ GCCF Denial Letter dated 22 October 2010.

⁴ Claimant's email to GCCF requesting a reevaluation of her claim, dated 27 October 2010.

NPFC Determination

Both Claimant's subsistence claim and his lost profits and earnings claims are denied for the reasons set forth below.

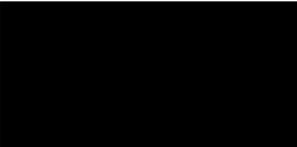
The Subsistence Claim

Claimant's subsistence claim is denied because he has not met his burden of proving a subsistence use loss as defined OPA, 33 U.S.C. § 2701 *et seq.*, and the OPA claims regulations at 33 C.F.R. Part §136. Specifically, he has not demonstrated a lawful pattern of subsistence use prior to and during the initial period of the incident. Claimant provided a copy of his recreational fishing license valid from July 2010 to July 2011, which indicates that he was able to fish for sport or recreation during that time period. He did not, however, provide a valid fishing license for the period prior to July 2010 that would demonstrate that he was eligible to catch fish, or provide sufficient information to support a regular pattern of catch that he or his family relied upon to meet the minimum necessities of life. Moreover, the period of his claimed loss exceeds the closure period, suggesting that at least a portion of his claimed loss resulted from his choice not to fish rather than the Deepwater Horizon incident. Additionally, Claimant did not show that he attempted to mitigate his subsistence use losses, to the extent that they occurred, by fishing in locations that were not closed to fishing.

Finally, during a phone conversation with a representative from the NPFC on 01 December 2010, Claimant explained that he worked various jobs, such as yard work and welding, during the time that he would have otherwise been fishing. Had we determined that this was a compensable claim, the measure of compensation would be the reasonable replacement cost of the lost subsistence resources less any amount of money that Claimant earned during the time he could not fish.

The Lost Profits and Earnings Claim

Claimant's lost profits claim is denied because Mississippi law requires a commercial fishing license for the sale of fish.⁵ Claimant provided a copy of his resident saltwater fishing license. Such a license is a general resident fishing license under MISS CODE (MIC) § 49-7-9(1) (1972), and such licenses do not authorize the license holders to catch fish for resale. MIC § 49-7-9 (2). Accordingly, Claimant could not legally sell fish he caught in Mississippi with his resident saltwater fishing license. Claimant's inability to profit from selling fish in violation of Mississippi licensure laws is not a compensable loss.⁶

Claim Supervisors: 

Date of Supervisor's review: 1/12/11

Supervisor Action: DENIED APPROVED

Supervisor's Comments:

⁵ The NPFC confirmed this blanket prohibition in a phone conversation with the Mississippi Department of Wildlife, Fisheries and Parks on 15 December 2010.

⁶ Given this ground for denial, the NPFC need not address the sufficiency of claimant's evidence for his claim for lost profits and earning capacity.

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
5890/DWHZ

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

Claim # N10036-0122
[REDACTED]

[REDACTED]

Re: Claim Number: N10036-0122

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the enclosed Claim Summary / Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0122.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date 16 December 2010
Claim Number N10036-0122
Claimant [REDACTED]
Type of Claimant Private (US)
Type of Claim Loss of Profits and Earning Capacity
Claim Manager Claims Manager
Amount Requested \$50,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants. On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

CLAIM AND CLAIMANT

On 24 November 2010, [REDACTED] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF or the Fund) seeking \$50,000.00 in lost profits and earning capacity resulting from the moratorium initiated subsequent to the Deepwater Horizon incident. The Claimant manufactures specialized tools for the oil industry, specifically for use in offshore drilling applications. Per the Claimant's OSLTF claim form, the basis for the claim is a reduction in orders for tools used in offshore deepwater drilling. The Claimant indicated that the majority of the company's business is dependent upon offshore drilling operations, while inland well drilling accounts for a small portion of the business.

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject *Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf*. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

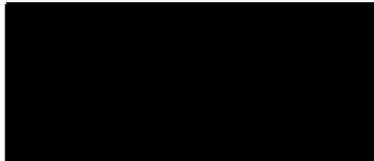
To support the claim and to demonstrate recent declines in sales orders, Claimant provided S-Corporation Tax Return filings and data comparing the company's 2010 sales to their primary customer to the sales received by competitors for the same customer during the same period, January through October 2010.² Additionally, the Claimant submitted a letter from their accountant that indicates he sought and received additional sales orders from inland customers to mitigate any losses from offshore customers.³ This letter also states that revenues were expected to increase during 2010, but the closure of rigs impacted the projected growth. As a result of reduced sales orders, the Claimant has presented a claim for \$50,000.00 to the Fund.

The Claimant filed an emergency advance payment claim with the GCCF during October 2010. The GCCF issued the claimant ID [REDACTED]. On 23 October 2010, the GCCF denied the Claimant's claim.

NPFC Determination

The claim is denied. Under 33 U.S.C. § 2702(b) and 33 C.F.R. § 136.233, the Claimant must prove that income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction. The evidence presented by the Claimant indicates that his purported loss resulted from the six month drilling moratorium. The Claimant's loss, therefore, did not occur because there was an oil spill in the Gulf of Mexico, but because a determination was made and a directive issued by the Department of the Interior to enact a six month moratorium to implement new safety requirements.⁴ As a result, The Claimant's claim is considered a consequence of the moratorium, not the Deepwater Horizon incident, and is denied.

Claim Supervisor:



Date:

12/17/10

Supervisor's Actions:

DECLINED APPROVED

Supervisor's Comments:

² Claimant provided a comparison between its orders from [REDACTED] to their competitors' orders for the years 2008, 2009 and 2010.

³ See letter from [REDACTED] tax preparer and accountant for Claimant, dated 17 November 2010. Letter indicates the Claimant is a cash-basis reporting entity. The accountant states the Claimant's revenues would have increased during 2010 but was hindered by rigs that were shut down.

⁴ See, Footnote 1.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937

5890

1/12/2011

VIA MAIL and EMAIL: [REDACTED]

RE: Claim Number: N10036-0124

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0124 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation of this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0124.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000520

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 10, 2011
Claim Number	: N10036-0124
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$10,000.00

FACTS:

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 30, 2010, [REDACTED] (Claimant) presented a loss of profits & earnings claim in the amount of \$10,000.00 to the National Pollution Funds Center (NPFC). The Claimant is asserting that her condo cleaning business was not able to generate income due to cancellations as a direct result of the Deepwater Horizon incident.

On December 21, 2010 the Claimant submitted a Quick Payment Final Claim to the GCCF. The Claimant was compensated \$25,000.00 after signing the Quick Payment Final Claim and Release.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c). Finally, payment of any claim from the Fund is subject to the

United States Government acquiring all rights of the claimant to recover from the responsible party. 33 U.S.C. § 2712(f).

DETERMINATION OF LOSS

In this case, the Claimant has settled the claim with GCCF, acting on behalf of the responsible party. Claimant has been compensated for its claim under the GCCF Quick Payment Final Claim process and has released its rights to recover further from the responsible party. The Fund is not available to pay any additional amount for the compensated claim, therefore claim # N10036-0124 in the amount of \$10,000.00 is denied.

Claim Supervisor:	
Date of Supervisor's review:	<i>1/12/11</i>
Supervisor Action:	<i>Denial approved</i>
Supervisor's Comments:	

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890
2/8/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0125

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0125 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0125.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000523

CLAIM SUMMARY / DETERMINATION FORM

Date	February 8, 2011
Claim Number	N10036-0125
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$2,577.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 30, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$2,577.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] asserted she lost wages due to her hours being cut as an office administrator at [REDACTED] in Mobile, Alabama as a direct result of the Deepwater Horizon incident.

The GCCF assigned Claimant identification # [REDACTED]. The Claimant indicated on her OSLTF claim form that she submitted her claim to the GCCF on August 23, 2010 and was subsequently denied at a later date.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, dated November 17, 2010
- Letter of explanation by Claimant's employer, dated November 18, 2010
- 1099 form for years 2007, 2008 and 2009
- Proof of surgery, dated September 25, 2009
- Photocopy of Claimant's ID and Social Security card
- Register Quick Report, pay summary, April 20, 2007 – November 15, 2007, April 20, 2008 – November 15, 2008, January 6, 2009 – November 15, 2009, January 7, 2010 – November 15, 2010
- 2008 U.S. Individual Tax Return
- 2007 Federal Return Recap
- Copy of original employment letter
- Copy of hardship letter from employer
- Answers to ten (10) questions sent to the Claimant by the NPFC
- Claimant's explanation regarding hours missed in 2009 due to jaw injury
- Copy of Claimant's employers claim that was submitted to and denied by GCCF

NPFC Determination

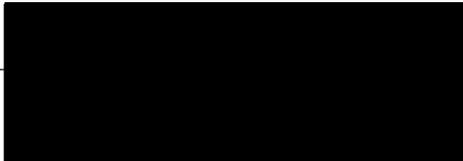
Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of

profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

In the Claimant's submission of her employer's claim to the NPFC, the financials that were provided show a steady decline consistent each year from 2007 to 2010. The Claimant's reduced hours are a result of her employer's decision based on the corporate financial stability.

The claim is denied because the evidence provided by Claimant, as described above, does not establish that the alleged loss was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. The Claimant's alleged financial loss is a result of her employer's decision to cut her hours and not a direct result of the Deepwater Horizon incident.

Claim Supervisor:



Date of Supervisor's Review: 2/8/11

Supervisor's Action: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
[REDACTED]
5890 DWHZ
Claim # N10036-0126
21 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

RE: Claim Number: N10036-0126

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0126 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the Claimant, be deemed final agency action. All correspondence should include claim number N10036-0126.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000527

CLAIM SUMMARY / DETERMINATION FORM

Date : 21 January 2011
Claim Number : N10036-0126
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Subsistence Use, Natural Resources, & Loss of Profits
Claim Manager : [REDACTED]
Amount Requested : \$4,900.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated Claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 16 November 2010, [REDACTED] (Claimant) presented an Optional Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking monthly costs and damages of \$200 for subsistence use, \$200 for natural resources, and \$300 for lost profits and earning capacity.¹ Claimant's total loss of \$4,900.00 is calculated as the monthly total \$700 multiplied by 7 months (the time from the date of the incident to the date of filing).

Claimant is an Alabama resident. She holds an Alabama Department of Conservation resident disabled fishing license for saltwater and freshwater fishing. Prior to Deepwater Horizon incident, Claimant asserts having fished at Cedar Point, Dauphin Island, Mobile Bay and Gulf Shores in Alabama, catching white trout, cat fish, red fish, red snapper and crabs. Claimant states that she fed her family with her catch; she also asserts selling fish to customers.

As a result of the Deepwater Horizon incident, Claimant alleges that she was not able to fish because "[t]he oil spill caused the fishing waters to become contaminated and unsafe. . . ."² Consequently, Claimant was unable to fish to feed her family (loss of subsistence use) and to sell fish to customers (loss of profits and earnings). Claimant's natural resources damages are not specifically described.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Covered removal costs and damages under OPA include, but are not limited

¹ Optional OSLTF claim form dated 16 November 2010.

² Optional OSLTF claim form dated 16 November 2010.

ENCLOSURE

FOIA2001-3380-0000528

to, natural resources damages, damages for loss of subsistence use of natural resources, and damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources. 33 U.S.C. § 2702(b)(2)(A), (b)(2)(C), and (b)(2)(E). Under 33 U.S.C. § 2702(b)(2)(A), natural resource damages are only recoverable by a United States trustee, a State trustee, and Indian tribe trustee, or a foreign trustee. Damages for loss of subsistence use and loss of profits and impairment of earning capacity are recoverable by any claimant establishing that their damages resulted from the incident.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6), provides that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Subsistence Use Loss Claim Requirements

Pursuant to the claims regulations at 33 C.F.R. §§136.219-223, each claim for loss of subsistence use of natural resources must—

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Lost Profits and Earning Capacity Claim Requirements

One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the

incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the following documentation to the NPFC:

- Optional OSLTF claim form dated 16 November 2010;
- Fax cover sheet from Office Depot indicating fax of 11 pages;
- GCCF denial letter dated 05 November 2010 for Claimant's request for emergency advance payment on lost profits or earnings;
- GCCF denial letter dated 12 November 2010 for Claimant's request for emergency advance payment on loss of subsistence use and natural resources damages;
- Copy of Claimant's Alabama driver's license and Alabama Department of Conservation residential disability fishing license for saltwater and freshwater;
- Undated letter from Claimant explaining her loss;
- Two Wal-Mart receipts for assorted items dated 4/15/2010 and 9/07/2010;
- Sam's Club receipt dated 9/03/2010 and Target receipt dated 7/10/2010;
- Letter from [REDACTED] indicating that Claimant has not been able to provide her with fish as a result of Deepwater Horizon incident;
- Letter from [REDACTED] indicated that she purchased large amounts of fish from Claimant;
- Letter from [REDACTED] indicating that she purchased large quantities of fish from Claimant.

Claimant bases her alleged loss on her reported inability to fish. She seeks \$1,400 as damages for lost subsistence use, determined as the cost to replace fish that she claims she would have caught and used for subsistence food (\$200 per month for seven months) if the spill had not occurred, \$1,400 for natural resource damages (also \$200 per month for seven months) and \$2,100 for lost profits and earnings for the fish that she did not sell (\$300 per month for seven months).³

On 13 October 2010, Claimant presented a claim for Emergency Advance Payment to the GCCF, and was issued Claimant ID # [REDACTED] and Claim [REDACTED] for her lost profits and earnings claim and Claim [REDACTED] for her loss of subsistence use claim. On 06 and 12 November 2010, respectively, the Claimant's claims were denied by the GCCF. This information was verified by the NPFC.

³ Optional OSLTF claim form dated 16 November 2010.

NPFC Determination

Both Claimant's subsistence claim and her lost profits and earnings claims are denied for the reasons set forth below.

Subsistence Use Loss and Natural Resources Damages

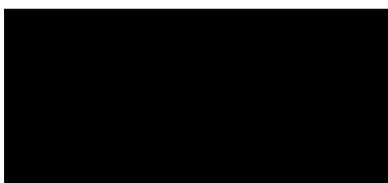
Her subsistence claim is denied because the Claimant has not met her burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part §136). Specifically, Claimant has not demonstrated a pattern of subsistence use prior to and during the initial period of the incident. The Claimant provided a copy of her recreational fishing license and was eligible to fish for sport or recreation. The Claimant failed to provide sufficient information to support a regular pattern of catch that she and her family relied upon to meet the minimum necessities of life. Moreover, the period of her claimed loss exceeds the closure period, suggesting that at least a portion of her claimed loss resulted from her choice not to fish rather than the Deepwater Horizon incident. Additionally, the Claimant did not show that she attempted to mitigate her subsistence use losses, to the extent that they occurred, by fishing in locations that were not closed to fishing.

The claim for natural resource damages is also denied because Claimant is not a designated natural resource trustee. We understand that within the state of Alabama the Department of Conservation and Natural Resources has been assigned by the Governor with the responsibility of assessing natural resource damages of state natural resources.

Lost Profits and Impairment of Earning Capacity

The lost profits component of Claimant's claim is also denied because she did not produce an Alabama commercial fishing license. Claimant provided a copy of her resident disabled fishing license (saltwater and freshwater). Alabama residents who hold resident fishing licenses pursuant to ALC §§ 9-11-53, 53.1 (1975) are authorized to take fish from Alabama public waters. The NPFC confirmed with the Alabama Department of Conservation and Natural Resources that a resident may not sell fish that he or she catches without a resident commercial fishing license.⁴ Claimant's residential disability fishing license for saltwater and freshwater is not a commercial fishing license. Claimant's inability to profit from selling in violation of Alabama licensure laws is not a compensable loss.⁵

Claim Supervisors:



Date of Supervisor's review: 1/24/11

Supervisor Action: *no loss allowed*

Supervisor's Comments:

⁴ The NPFC confirmed this licensure requirement with the Alabama Department of Conservation and Natural Resources on 15 December 2010.

⁵ Given this ground for denial, the NPFC need not address the sufficiency of Claimant's evidence for her claim for lost profits and earning capacity.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

VIA EMAIL AND LETTER

5890/DWHZ
Claim # N10036-0127
24 January 2011

Email:

Re: Claim Number: N10036-0127

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0127.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Lieutenant Commander
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	13 January 2011
Claim Number	N10036-0127
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$10,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 23 November 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted that she lost wages due to a cut in hours because of the Deepwater Horizon incident.

The Claimant works at a casino in Biloxi, Mississippi.¹ She asserted that her hours and wages were cut due to her employer's reduced business resulting from the Deepwater Horizon incident. Her employer relies on the tourism trade on the coast as well as local guests who patron the casinos. Claimant maintained that her employer was forced cut her hours due to the lack of tourism as a result of the Deepwater Horizon incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated November 23, 2010, a copy of pay stubs for periods before, during, and after the incident, and a written document in claimant's own words explaining her damages and the claim.

Claimant submitted for an Emergency Advance Payment claim to the GCCF on 28 September 2010 and was issued GCCF Claimant ID [REDACTED] and Claim [REDACTED]. GCCF denied her claim. This information was verified by the NPFC.

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The NPFC attempted to contact Claimant by Certified Mail Return Receipt Requested #7010 1060 0001 7083 1904 dated 10 December 2010 to obtain additional information in order to properly evaluate her claim. USPS Tracking shows the letter was delivered on 13 December 2010. The NPFC has received no communication from the Claimant. The claim is denied because claimant has not provided sufficient evidence to prove the claimed loss of \$10,000.

Claim Supervisor: 

Date of Review: *1/24/11*

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0203
11 January 2010

RE: Claim Number: N10036-0128

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Please see the enclosed Claim Summary / Determination Form further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the Claimant, be deemed final agency action. All correspondence should include claim number N10036-0203.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date : 11 January 2011
Claim Number : N10036-0128
The Claimant : [REDACTED]
Type of The Claimant: Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [REDACTED]
Amount Requested : \$10,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated [REDACTED] (Claimant). On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 November 2010, the Claimant submitted a lost profits and earnings claim in the amount of \$10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant is asserting that she earned reduced wages and tips from her employment at a hotel as a result of the Deepwater Horizon incident. The Claimant claims to be employed as a cashier/waitress in the [REDACTED] where she stipulates that she "received an hourly wage." The Claimant did not indicate her job position or duties with her current employer. The Claimant is making a claim for reduced wages and tips as a result of the Deepwater Horizon incident.¹

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

¹ Letter to whom it may concern from [REDACTED] dated 16 November 2010

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant provided a hand written appeal letter "To Whom It May Concern" dated 14 November 2010 referencing the "BP Oil Spill Crisis 2010." The cover page references a claim number [REDACTED] and her social security number. A voided check number 234 for Claimant is provided.² NPFC verified Claimant's GCCF Claimant ID # as [REDACTED] and her Claim # [REDACTED]. On 09 November 2010, Claimant was denied by the GCCF.

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity and show, among other things, that their income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

² Letter to whom it may concern from Claimant dated 16 November 2010
09/13/11

The claim is denied because the evidence presented by the Claimant does not show that her alleged loss is the result of the Deepwater Horizon incident. The NPFC attempted to contact the Claimant to learn more about her claim without success. Without sufficient documentation, Claimant has not met her burden and her claim must be denied.

Claim Supervisor:



Date of Supervisor's Review:

1/12/11

Supervisor's Actions:

Denial APPROVED

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

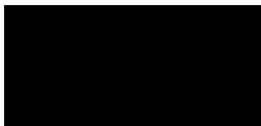


Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



[REDACTED]
5890 DWHZ
Claim # N10036-0129
07 April 2011

RE: Claim Number: N10036-0129

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0129 pertaining to the lost profits or earnings portion of your claim. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the Claimant, be deemed final agency action. All correspondence should include claim number N10036-0129.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely



U.S. Coast Guard
Claims Manager

CLAIM SUMMARY / DETERMINATION FORM

Date : 07 April 2011
Claim Number : N10036-0129
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Subsistence Use & Loss of Profits
Claim Manager : [REDACTED]
Amount Requested : \$5,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010, [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$5,000.00 in natural resource damages resulting from the Deepwater Horizon oil spill.

Claimant is a recreational fisherman. He holds a Mississippi Department of Wildlife, Fisheries and Parks Nonresident Saltwater Fishing License and an Alabama Conservation License with privileges for Wildlife Heritage, Resident Freshwater Fishing, and Resident Saltwater Fishing. Through a notarized statement, claimant asserts that he is a recreational fisherman who provides fish to regular customers and earns \$200-300.00 a week.

Claimant alleges that “[d]ue to the oil spill [he] could not fish for food or . . . make a profit from customers, [and he also] was not able to purchase seafood . . . for [his] family [to consume].”¹

Claimant sought lost profits and loss of subsistence use of natural resources from his alleged inability to fish.²

¹ Optional OSLTF Claim Form.

² We construe Claimant’s submission to allege these claims in light of his supporting documentation since under 33 U.S.C. § 2702(b)(2)(A), natural resource damages are only recoverable by a United States trustee.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Lost Profits and Earning Capacity Claim Requirements

The OSLTF, which is administered by the NPFC, is available pursuant to 33 U.S.C. § 2712(a)(4) and 2713 and the OSLTF claims adjudications regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or a destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- 1) That real or personal property or natural resources have been injured, destroyed, or lost.
- 2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- 3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- 4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- 1) All income resulting from the incident;
- 2) All income from alternative employment or business undertaken;
- 3) Potential income from alternative employment or business not undertaken, but reasonably available;
- 4) Any saved overhead or normal expenses not incurred as a result of the incident; and
- 5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation to the NPFC:

- Signed, Optional OSLTF Claim Form dated 23 November 2010;
- Signed, one-page statements from nine (9) customers of Claimant purporting to buy seafood from Claimant on a regular basis;
- State of Alabama residential freshwater and saltwater fishing license;
- State of Alabama boat registration certificate;
- State of Alabama driver's license;
- GCCF denial letter dated 23 October 2010 for emergency advance payment on subsistence loss and damages;
- Fax date 23 November 2010 from [REDACTED] granting early dismissal permission for [REDACTED]

On 30 August 2010, Claimant filed for an Emergency Advance Payment in the amount of \$1,000.00 for loss of subsistence use of natural resources with GCCF. GCCF assigned him Claimant ID [REDACTED] and claim [REDACTED] to this claim. GCCF thereafter denied this claim.

On 22 November 2010, Claimant filed a claim for \$5,000.00 in natural resource damages with the NPFC. Although electing natural resource damages, Claimant's submission indicates that he is seeking lost profits and loss of subsistence use of natural resources from not being able to fish as a result of the Deepwater Horizon incident.

Claimant sought lost profits and loss of subsistence use of natural resources from his alleged inability to fish.³ The NPFC adjudicated the portion of his claim relating to Subsistence and issued a determination on 27 January 2011. While his NPFC filing remained pending, Claimant filed a lost profits and earnings claim with the GCCF. GCCF assigned claim [REDACTED] to this claim. The NPFC placed the Claimant's lost profits claim on adjudicatory hold because it was improperly before the NPFC as it had not either been denied or not acted upon within the time frame described in 33 C.F.R. §136.103(c). On 04 April 2011, Claimant contacted the NPFC to inform us that his lost profits and earnings claim had been denied by the GCCF.

NPFC Determination

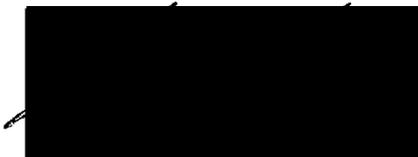
Lost Profits and Impairment of Earning Capacity

The lost profits component of Claimant's claim is denied because he did not produce either an Alabama or Mississippi commercial fishing license. Claimant provided a copy of his residential fishing licenses (saltwater and freshwater).

³ We construe Claimant's submission to allege these claims in light of his supporting documentation as described in footnote above.

Alabama residents who hold Alabama Conservation Residential fishing licenses pursuant to ALC §§ 9-11-53 – 53.2 (1975) are authorized to take fish from Alabama public waters. The NPFC confirmed with the Alabama Department of Conservation and Natural Resources that a resident may not sell fish that he or she catches without a resident commercial fishing license.⁴ Claimant's residential Alabama fishing license is not a commercial fishing license. Similarly, under Mississippi law (MISS Code Section 49-7-9(2)), Claimant cannot commercially sell fish that he catches under his Mississippi nonresident saltwater fishing license because it is not a commercial fishing license. Claimant's inability to profit from selling fish caught under residential fishing licenses in violation of Alabama and Mississippi licensure laws is not a compensable loss.⁵

Claim Supervisors:



Date of Supervisor's review:

4/7/11

Supervisor Action:

Denial Allowed

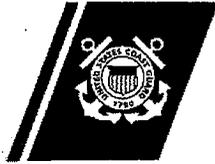
Supervisor's Comments:

⁴ The NPFC confirmed this licensure requirement with the Alabama Department of Conservation and Natural Resources on 15 December 2010.

⁵ Given this ground for denial, the NPFC need not address the sufficiency of claimant's evidence for her claim for lost profits and earning capacity.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

VIA MAIL AND EMAIL: [REDACTED]

5890/DWHZ
Claim # N10036-0130
06 January 2011

Re: Claim Number: N10036-0130

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0130 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0130.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

Claim Supervisor: [REDACTED]

Date of Review: *1/6/11*

Supervisor's Comments: [REDACTED]

CLAIM SUMMARY / DETERMINATION FORM

Date	06 January 2011
Claim Number	N10036-0130
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$6,200.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants continue.

CLAIM AND CLAIMANT

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08

On 24 November 2010, [REDACTED] (Claimant) presented a claim to the NPFC seeking \$6,200.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident. The Claimant is a [REDACTED] and is claiming reduced earnings as a result of the moratorium.

Claimant was employed by [REDACTED] and has provided documentation indicating that he has been with the company for almost nine years. Claimant works for a marine transportation group responsible for supplying oil rigs with deck cargo, water, fuel and other operationally necessary items. The Claimant asserts that as a result of the Deepwater Horizon incident, his work hours were reduced by approximately half, though he was never furloughed or terminated from his position. Claimant is requesting compensation for lost earnings capacity as a result of the moratorium.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;

- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertake, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented an Optional OSLTF Claim Form on 24 November 2010. Claimant provided reported earnings statements, pay stubs and tax return Form W2 and Form 1040 from the tax years 2008 through 2009. Claimant also presented his claim submission to the GCCF. Claimant's initial claim with the GCCF was assigned identification number # [REDACTED] and in was denied in a letter from the GCCF dated 23 October 2010. Claimant indicates that the Gulf Coast Restoration and Protection Foundation (GCRPF) denied his claim because he was not a rig worker².

B. NPFC Determination

Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The Claimant's employer was contacted on 07 December 2010. [REDACTED] Director of Human Resources for [REDACTED] [REDACTED] advised that the decision to "cut back" hours on every vessel began in January 2010 because there were no drilling jobs. That reduction in hours from twenty-eight (28) days on/fourteen (14) days off to fourteen (14) days on/fourteen (14) days off was intended to last until June 2010 when four new boats would be brought on-line and additional crews would be required.⁶ The moratorium changed that and their charters with companies such as Shell were postponed, still awaiting Shell's permits.⁶ This cut back allowed [REDACTED] to keep trained people on staff while giving [REDACTED] the ability to respond quickly, when necessary. All documentary evidence provided, in conjunction with the reasons provided by [REDACTED] [REDACTED] indicates that Claimant's loss of hours occurred initially due to a business decision, and has continued subsequently due to the six month deepwater drilling moratorium.⁶ The Claimant's loss, therefore, did not occur because there was an oil spill in the Gulf of Mexico, but because a determination was made by the employer and a directive issued by the Department of the Interior to enact a six month moratorium to implement new safety requirements.³ As a result, the Claimant's claim is considered a consequence of a business decision and the moratorium, not the oil spill, and is not compensable under OPA.

² See, letter from Claimant dated 13 October 2010.

³ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject *Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf*. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

⁶ See, Telephone Summary from conversation which occurred between [REDACTED] and [REDACTED] (NPFC) on 07 December 2010 at 1130.

U.S. Department of
Homeland Security

United States
Coast Guard



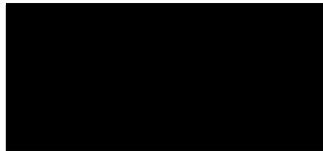
Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

5890/DWHZ
Claim # N10036-0131
16 February 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



Re: Claim Number: N10036-0131

Dear [REDACTED]

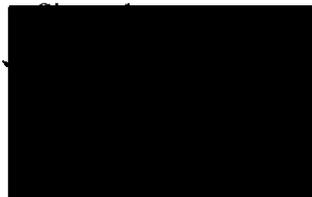
The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on your claim number N10036-0131. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0131.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-00000550

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0131
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$116,563.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$116,563.00 in lost profits and earning capacity as a result of the Deepwater Horizon oil spill.

The Claimant was formerly employed as a sales manager for [REDACTED]. Prior to the Deepwater Horizon oil spill, Claimant was given authorization and funding to open an office in northwest Florida which would offer a full range of Mass Mutual products. As a result of the Deepwater Horizon oil spill, Claimant asserts that [REDACTED] terminated his employment, canceled his sales contract and required him to reimburse certain monies advanced to him for opening the office.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be

clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

In support of his claim, the Claimant presented the following documentation:

- OSLTF claim form dated 10 November 2010;
- Typewritten Description of Damage Claim, undated, signed by Claimant;
- BP "Making it right" promotional material;
- Interoffice Memorandum from [REDACTED], dated 04 March 2010;
- Letter from [REDACTED] to Claimant describing sales manager obligations, dated 10 February 2010;
- [REDACTED] Schedule of Sales Manager Unit Income and Personal Production prepared for Claimant;
- Invoices for advances from LFG to Claimant for costs incurred while opening office;
- Letter from [REDACTED] informing Claimant of termination of [REDACTED] Sales Representative Agreement;
- Letter from [REDACTED] to Claimant terminating Claimant's office's operation in the North Florida region, dated 17 May 2010;
- Letter from [REDACTED] to Claimant requesting reimbursement for moneys owed;
- Notice of Intent to File Suit from [REDACTED] to Claimant, dated 12 October 2010;
- Claim submission confirmation page from GCCF;
- [REDACTED] health insurance confirmation page;
- Schedule of unemployment benefits received by Claimant between 23 May 2010 and 31 October 2010;
- Invoice from Executive Office Suites of [REDACTED] to Claimant for monthly rent and office setup;
- [REDACTED] Expense Report for Claimant, dated 05 July 2010;
- [REDACTED] Equipment Rental contract for rental on 23 June 2010;
- ExtraSpace Storage receipt dated 25 March 2010;
- [REDACTED] receipt dated 26 April 2010;
- Letter from [REDACTED] re termination of career contract;
- [REDACTED] confirmation page dated 22 January 2010;
- Notice of Eviction dated 04 November 2010;
- [REDACTED] Disconnect Notice dated 04 November 2010;
- Water disconnection notice;
- Bill for services not covered by insurance rendered by [REDACTED];

- [REDACTED] checking account statement;
- 2008 and 2009 Federal tax returns.

The Claimant seeks \$116,563.00 in lost profits and earning capacity, his estimated loss from his employer's decision to lay him off and cancel his financial funding for opening an office in Northwest Florida, allegedly as a result of the Deepwater Horizon oil spill.

The Claimant filed an Emergency Advance Payment (EAP) for lost profits and earnings with the GCCF. He was assigned Claimant ID # [REDACTED] and Claim # [REDACTED]. On 09 November 2010, this claim was denied. The NPFC verified this information.¹

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

On 09 January 2011, the NPFC dispatched a letter to Claimant requesting additional information regarding the nature of his business and claimed loss. NPFC informed Claimant that if the information was not received then the NPFC would proceed with adjudication based on the documentation previously submitted by Claimant. The Claimant signed for the additional information request letter on 13 January 2011. As of the date of this determination, Claimant has not responded to NPFC's request.

Based on a review of the documentation at hand, Claimant has not proven that his claimed loss resulted from the Deepwater Horizon oil spill. Specifically, Claimant has not shown that his income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources due to discharge or substantial threat of discharge of oil. The evidence appears to indicate that the Claimant's loss resulted from his employer's decision to terminate his employment.

Claim Supervisor:



Date of Supervisor's Review: 2/17/11

Supervisor's Actions: Denial Allowed

Supervisor's Comments:

¹ The Claimant also filed a Final Payment claim with the GCCF. This claim is still under review.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

5890/DWHZ
Claim # N10036-0132
06 January 2011

Re: Claim Number: N10036-0132

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0132.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	05 January 2011
Claim Number	N10036-0132
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$17,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 19 November 2010, [REDACTED] (Claimant), presented a lost profits & earnings claim in the amount of \$17,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] asserts that her sustained reduced tip income while employed at the [REDACTED] was due to the Deepwater Horizon oil spill.

[REDACTED] has been working for the [REDACTED] Hotel [REDACTED] located in [REDACTED] Alabama since June 2009. Prior to working at the [REDACTED] [REDACTED] was a college student during 2008 and part of 2009 and therefore was not employed¹. [REDACTED] has not indicated her employment capacity with her employer, but states that she received tip income in addition to regular wages. On Claimant's Optional OSLTF claim form she indicated that she "was out of work and had to find a source of income"². To the contrary, Claimant provided a letter dated 23 November 2010 stating that her work hours after the Deepwater Horizon incident were comparable to the same period of the prior year but her tip income had declined³. Based on the statements provided, Claimant is requesting compensation for reduced tip income from her employment at the [REDACTED]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

¹ See, letter from Claimant dated 27 October 2010.

² See, field #9 of Claimant's OSLTF claim form dated 19 November 2010.

³ See, letter from Claimant dated 23 November 2010.

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC Optional OSLTF Claim Form dated 19 November 2010, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF), 2009 Form W-2 and earnings summary for 2009 and 2010. Claimant filed an initial claim with GCCF and was assigned claimant identification # [REDACTED]. On 16 November 2010, the GCCF issued a denial to Claimant stating that she has not demonstrated a loss of profits or income as a direct result of the oil-spill.⁴

B. NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant and has determined that Claimant has not proven her claimed losses.

Claimant provided a one-page document to support her wages earned from 05 June 2009 through 11 November 2010⁵. The document does not state the name of the employer or provide details regarding the number of hours worked. Based on the descriptions shown on the document, there is a column for "year to date" earnings and "this period" for the current pay period. The figures shown for the current period appear to have been reversed with the amounts for the "year to date" field since the current period's earnings are higher than the year to date amounts. Also, the assumed "year to date" figure does not correlate with the details shown for the periods worked during 2010.

Claimant began working for the [REDACTED] during June 2009. When comparing Claimant's earnings during 2009 and 2010 from June through November, Claimant earned \$2,549 during 2009 and \$2,187 during 2010, a difference of \$362. [REDACTED] is making a claim for \$17,000 in reduced tip income which is not supported by historical wage earnings produced. Based on the reported earnings, there is a differential of \$362, of which we do not have evidence that it is a direct result of the Deepwater Horizon incident. Claimant has not met her burden of proof that she sustained a reduction in tip income resulting from the Deepwater Horizon incident and is denied.

Claim Supervisor: [REDACTED]

Date of Review: 1/6/11

Supervisor's Comments: *Denial approved*

⁵ Claimant provided a document titled "Summary Statement" to support her earnings. The document does not state the name of the employer. FOIA2001-3380-00000557

U.S. Department of
Homeland Security

**United States
Coast Guard**

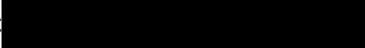


Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)



VIA CERTIFIED MAIL

Number: 



RE: Claim Number: N10036-0134

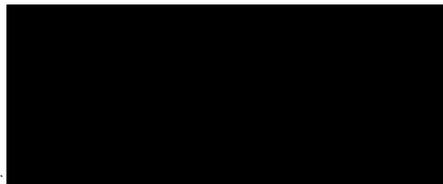
Dear 

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0134 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0134.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000558

CLAIM SUMMARY / DETERMINATION FORM

Date	: 25 January 2011
Claim Number	: N10036-0134
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$10,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 23 November 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserts that as an employee of the [REDACTED] she has experienced a loss of hours, wages and gratuities.¹

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the NPFC Optional OSLTF Claim Form dated November 2010, received 23 November 2010, a copy of various statements of earnings from [REDACTED] and a typed letter to the NPFC explaining her claim situation.

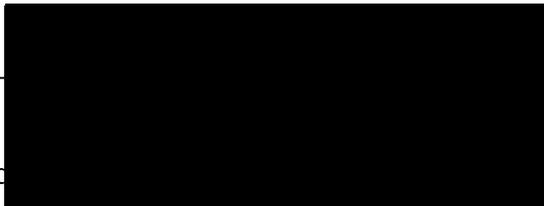
Claimant advised that she filed a previous claim with the GCCF in September 2010, Claimant Identification Number: [REDACTED] and was denied.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings as a direct result of the Deepwater Horizon incident. The NPFC made an official request for additional information on 09 December 2010. Claimant had 30 days in which to provide the requested information or request an extension of time. The Claimant has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA therefore this claim is denied.

Claim Supervisor



Date of Supervisor's review: *1/25/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

5890/DWHZ
Claim # N10036-0136
18 January 2011

Re: Claim Number: N10036-0136

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0136.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	10 January 2011
Claim Number	N10036-0136
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$12,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, [REDACTED] (Claimant), presented a lost profits & earnings claim in the amount of \$12,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant is asserting that he was furloughed by his employer, [REDACTED] due to the Deepwater Horizon incident.

Claimant described his employment as an electrician that worked on platforms, rigs, plants and ships.¹ Claimant asserts that his employer's business declined following the Deepwater Horizon incident therefore he was laid-off from May 2010 until August 2010.²

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

¹ See, handwritten responses provided by Claimant.

² See, handwritten responses provided by Claimant.

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the Optional NPFC OSLTF Claim Form on 29 November 2010, pay stubs for employment for various periods from January through April 2010, 2009 Individual Income Tax Return filings and photocopies of various identification and certification cards. Claimant indicates he submitted a claim to the GCCF, denial letter included with Claimant's documentation with claimant identification number [REDACTED] dated 15 November 2010.

Claimant also included the most recent Employee Evaluation form dated 29 April 2010 as well as an Employee Termination form dated 29 April 2010 which indicates a Reduction of Force as the primary reason for termination.

B. NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or

impairment of earning capacity. Claimant has not provided sufficient documentary evidence to support a loss of profits or earning capacity resulting from the Deepwater Horizon incident.

Claimant asserts that he was terminated from his employment on 29 April 2010 as a result of the Deepwater Horizon incident. Claimant believes that his employer, [REDACTED] was negatively impacted by the Deepwater Horizon incident, which led them to release him from employment. Claimant has not provided documentation from his employer to confirm the reason for his termination as due to the Deepwater Horizon incident.

NPFC made contact with Claimant's employer and spoke with the Human Resources representative, [REDACTED] [REDACTED] advised that the Claimant was released due to a reduction in force as a result of a lack of work available, but that this was not directly due to the oil-spill.

Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment. Claimant has not provided sufficient documentary evidence to support that his claim for lost profits and earning capacity of \$12,000.00 was a direct result of the Deepwater Horizon incident and therefore the claim is denied.

Claim Supervisor: [REDACTED]

Date of Review: 1/14/11

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



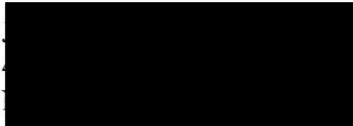
Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)



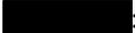
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: 



5890/DWHZ
Claim# N10036-0137
28 February 2011

RE: Claim Number: N10036-0137

Dear :

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0137. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0137.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	23 February 2011
Claim Number	N10036-0137
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$7,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$7,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant works as a waitress at the [REDACTED] Restaurant in New Orleans, Louisiana. The Claimant began work there in March 2010 as confirmed by Managing Partner, [REDACTED] on February 24, 2011 via phone conversation with [REDACTED] of the NPFC. Prior to this, the Claimant worked at the [REDACTED] in New Orleans from September 2009 to March 2010. Claimant provided a letter allegedly from the manager of the [REDACTED] which indicated that "since the oil spill occurred, [Claimant's] wages has [sic] decreased dramatically due to our company losing business."¹ Claimant herself asserted that "my job lost a lot of business due to the oil spill" and she also lost wages.²

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

¹ Letter from [REDACTED] dated 28 October 2010.

² OSLTF claim form.

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form dated 17 November 2010;
- Copy of Claimant's Louisiana driver's license;
- Transcript of her U.S. Individual Income Tax Return for 2009;
- Summary of weekly earnings at [REDACTED] [REDACTED] from 01 April through 10 October 2010;
- Letter from [REDACTED] dated 28 October 2010;
- Letter the [REDACTED] dated 04 November 2010;
- Pay stubs and earnings statements from [REDACTED] [REDACTED] for 2010 & 2011;
- Claimant's 2008 W-2 from [REDACTED], Inc.;
- Claimant's 2008 W-2 from [REDACTED];
- Claimant's 2008 W-2 from [REDACTED].;
- 2008 1040A for [REDACTED] with Claimant as dependent;
- Employee time card detail, sales and tips from [REDACTED] for 2010;
- GGCF denial letter dated 27 October 2010;
- Claimant 2008 W-2 from [REDACTED];
- 2006 1040 for [REDACTED] with Claimant as dependent;

- Claimant 2009 W-2 from [REDACTED];
- Claimant 2009 W-2 from [REDACTED] Services;
- 1099-G for [REDACTED];
- 2009 W-2 from [REDACTED] for [REDACTED] and
- 2009 1040 for [REDACTED]

Claimant seeks lost earnings and wages in the amount of \$7,000.00 allegedly resulting from the Deepwater Horizon oil-spill.

On 06 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$3,000.00 in lost earnings with the GCCF. She was issued GCCF Claimant ID # [REDACTED] and Claim # [REDACTED]. On 27 October 2010, her claim was denied by the GCCF.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Claimant asserted that she lost wages at the [REDACTED] as a result of the Deepwater Horizon oil-spill. To support this allegation, she provided, among other documentation, a letter from [REDACTED] of [REDACTED]. The letter alleged that Claimant's hours were reduced in light of decreased business resulting from the Deepwater Horizon oil-spill. On 24 February 2011, the NPFC contacted [REDACTED] and provided him with a copy of the letter the Claimant presented to the NPFC in support of her alleged loss. [REDACTED] repudiated the letter, indicating that he did not write it and that the [REDACTED] losses from the Deepwater Horizon oil-spill were minimal therefore as Managing Partner of the Company, he decided not to make a claim against BP. [REDACTED] further indicated that to the extent that employee hours were reduced during the time period of the spill, it was done so, as a business decision, to reduce operating expenses for the Company.

The claim is denied because the alleged loss in the amount of \$7,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.³

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 2/27/11

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

³ Claimant also failed to prove her damages. The tax documentation that she submitted indicated that her earnings for 2010 exceeded those for 2009.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

EMAIL: [REDACTED]

5890/DWHZ
Claim # N10036-0138

29 December 2010

Re: Claim Number: N10036-0138

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the lost earnings you presented in your claim were a result of the Deepwater Horizon incident. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0138.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	29 December 2010
Claim Number	N10036-0138
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$19,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 09 November 2010 [REDACTED] (Claimant), presented a lost profits & earnings claim in the amount of \$19,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] is asserting that he was not able to find employment performing cleanup work arising from the Deepwater Horizon incident.

Claimant stated in a letter to the NPFC dated 10 November 2010 that he was previously employed by an individual, [REDACTED]. Claimant states he performed general maintenance and landscaping activities on [REDACTED] property¹. Claimant stated he last worked for Ms. [REDACTED] on 24 June 2010 [REDACTED] ceased working for [REDACTED] in order to seek employment as a response contractor following the Deepwater Horizon incident.

Claimant states after he became left his job working for [REDACTED], he received [REDACTED] training in hopes of finding employment as a response contractor for the Deepwater Horizon incident response. After [REDACTED] received his [REDACTED] training and certification, he asserts that he was not able to find employment as a response contractor. Claimant is making a claim based on his inability to find response work related to the Deepwater Horizon incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

¹ See, letter from Claimant to NPFC dated 10 November 2010. Letter explains that Claimant left existing employment to seek cleanup work related to the Deepwater Horizon incident but was not successful.

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant presented the NPFC OSLTF Claim Form dated 09 November 2010 and miscellaneous supporting documents, including a notarized letter from [REDACTED] various identification cards and training certifications for response related work and receipt tickets related to work performed for [REDACTED]. Additionally, the Claimant has provided miscellaneous medical bills related to treatment sought for anxiety and depression that he asserts was caused by his inability to find employment.

Claimant stated that he filed a claim with the RP (BP)/ GCCF sometime during October 2010 and his claim was denied. The GCCF assigned claimant identification # [REDACTED] to [REDACTED] claim submission.

B. NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the alleged loss in the amount of \$19,000 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Claimant's unemployment and alleged financial losses are the result of his decision to leave his employment with Ms. [REDACTED] in order to find work as a response contractor for the Deepwater Horizon incident. The Claimant provided a letter from Ms. [REDACTED], his former employer who stated, "[REDACTED] informed me that his last day will be on 24 June 2010 because he got hired to go and work for the oil spill"². Based on both the Claimant's statements and the letter from Ms. [REDACTED], it is evident that the Deepwater Horizon incident did not cause Claimant to lose his employment. Such a loss as the one claimed in this case, is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [REDACTED]

Date of Review: 12/29/10

Supervisor's Comments: Denial Approved [REDACTED]

² See letter from [REDACTED] undated. The letter describes Claimant's employment with her and his work history.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937
5890/DWHZ

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

Claim # N10036-0139
28 December 2010

Email: [REDACTED]

Re: Claim Number: N10036-0139

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the enclosed Claim Summary / Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0139.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	28 December 2010
Claim Number	N10036-0139
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$30,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a directive to implement a six-month moratorium on deepwater drilling (water depth greater than 500 feet), citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010.¹ Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On 22 June 2010, the District Court, Eastern District of Louisiana, issued a preliminary injunction prohibiting the enforcement of the DOI directive.²

On 12 July 2010 the DOI issued a new decision to suspend deepwater drilling activities.³ Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants, through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE), continue.

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities.

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

² United States District Court, Eastern District of Louisiana Order dated 22 June 2010 by the Honorable Martin L. Feldman, CA No. 10-1663, Section F.

³ Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf.

The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

On 17 November 2010, Claimant Mr. [REDACTED] (Claimant) presented a Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) claiming loss of profits and earnings in the amount of \$30,000.00.

The reported basis for the claim is that the Claimant was released from his position as a Derrickhand on offshore drilling rigs by his employer, [REDACTED], a division of [REDACTED]. He asserts that he was furloughed without pay due to the oil spill in the Gulf of Mexico which affected his employer.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the oil spill also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the oil spill must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the oil spill must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the oil spill;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the oil spill; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the claimant presented the NPFC OSLTF claim form dated 17 November 2010, three (3) letters from [REDACTED] dated August 27, 2010, October 23, 2010 and November 17, 2010, respectively. The Claimant also presented two (2) letters from [REDACTED] dated 02 July and 29 October 2010, respectively, confirming that the claimant was furloughed without pay due to the Gulf Coast Oil Spill and its effects on shallow water drilling operations. Financial documentation presented included a 2008 Tax Return Form 1040A, a 2009 W-2 statement from [REDACTED], a 2010 [REDACTED] "Current Earnings Report" and a 2009 W-2 statement and five (5) earning statements from [REDACTED]. The Claimant also presented several web print outs regarding the Deepwater Horizon Oil Spill incident.

Claimant previously filed an Emergency Advance Payment claim with the GCCF in the amount of \$30,000.00 on 01 September 2010 and was issued Claimant ID # [REDACTED] and Claim # [REDACTED]. Claimant provided confirmation of his prior submission to the GCCF with two (2) denial letters dated 27 August and 14 September 2010, respectively.

NPFC Determination

The claim is denied. Under 33 U.S.C. 33 § 2702(b)(2)(E) and C.F.R. Part 136, a claimant must prove that his loss of income was due to injury or destruction or loss of real or personal property or a natural resources as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Correspondence from Claimant's employer (Ms. [REDACTED], Human Resources Generalist for [REDACTED]) indicated that his furlough was due to "side effects" and "repercussions" from the Deepwater Horizon incident. The NPFC contacted Ms. [REDACTED] for clarification of the language in her letter. Ms. [REDACTED] informed the NPFC that the repercussions specified in previous correspondence referred to delays established by newly instituted regulations following the Deepwater Horizon incident. Further, on 21 December 2010 the NPFC spoke with [REDACTED] who informed us that the "ability to obtain new permits since April 20th has dried up" and "new requirements from the BOEMRE are confusing as they relate to the new permitting processes and delays."

In the present claim, the NPFC reviewed the evidence presented by Claimant and interviewed representatives at [REDACTED], his former employer. The [REDACTED] representatives explained that their personnel furloughs resulted from new regulations and delays in the

government's issuing new drilling permits to the companies that engage [REDACTED] for shallow water drilling. As a result, the Claimant's loss is not the result of the Deepwater Horizon incident but the result of the repercussions relating to the DOI mandated moratorium and subsequent regulatory and permitting requirements required by the BOEMRE.

Claim Supervisor:



Date of Supervisor's Review: 12/29/10

Supervisor's Action: *Denial approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [REDACTED]

[REDACTED]
Fax: 202-493-6937
5890
DWHZ N10036-0140
02 February 2011

[REDACTED]
RE: Claim Number: N10036-0140

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0140 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0140.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-00000579

CLAIM SUMMARY / DETERMINATION FORM

Date : 02 February 2011
Claim Number : NI0036-0140
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [REDACTED]
Amount Requested : \$14,600.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, Mr. [REDACTED] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Fund Center (NPFC), alleging \$14,600.00 in loss of subsistence use of natural resources.

On 14 December 2010, in response to an NPFC request for information, claimant revealed that he sold seafood to [REDACTED] and bags of shrimp to fans at football games.¹ Claimant alleged that his customers no longer want to buy seafood from him as a result of the Deepwater Horizon incident.² On 10 January 2011, claimant estimated his total lost profits for a six month period from not being able to sell seafood to be \$12,000.00.³

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Covered removal costs and damages under OPA include, but are not limited to, natural resources damages, damages for loss of subsistence use of natural resources, and damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources. 33 U.S.C. § 2702(b)(2)(A), (b)(2)(C), and (b)(2)(E). Under 33 U.S.C. § 2702(b)(2)(A), natural resource damages are only recoverable by a United States trustee, a State trustee, and Indian tribe trustee, or a foreign trustee. Damages for loss of subsistence use and loss of profits and impairment of earning capacity are recoverable by any claimant establishing that their damages resulted from the incident.

¹ Claimant hardship letter (undated); notarized statement from [REDACTED] attesting to buying seafood from claimant; and letter showing 6 month break down of claimant's total losses.

² Numbered answers to NPFC questions fax date 07 January 2011.

³ It appears that this amount comprises the bulk of his original \$14,600.00 claim.

09/13/11
ENCLOSURE

FOIA2001-3380-0000580

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6), provides that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Subsistence Use Loss Claim Requirements

Pursuant to the claims regulations at 33 C.F.R. §§136.219-223, each claim for loss of subsistence use of natural resources must—

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Lost Profits and Earning Capacity Claim Requirements

One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- 1) That real or personal property or natural resources have been injured, destroyed, or lost.
- 2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- 3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- 4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- 1) All income resulting from the incident;
- 2) All income from alternative employment or business undertaken;
- 3) Potential income from alternative employment or business not undertaken, but reasonably available;
- 4) Any saved overhead or normal expenses not incurred as a result of the incident; and
- 5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, claimant submitted the following documentation:

- 1) Optional OSLTF Claim Form;
- 2) 2 page Office Depot fax to NPFC, dated 10 January 2011, including
 - a. Cover letter; and
 - b. a calculation of claimant's total loss (lost profits and the value of replacing the loss of subsistence use of natural resources);
- 3) 5 page Office Depot fax to NPFC, dated 07 January 2011, including
 - a. Numbered answers to NPFC questions (2 pages);
 - b. Letter from [REDACTED] and [REDACTED], indicating that it bought shrimp from claimant;
 - c. Letter from [REDACTED], indicating that he or she bought seafood from claimant;
- 4) 3 page Office Depot fax to NPFC, dated 25 December 2010, including
 - a. Cover letter;
 - b. Notarized statement from [REDACTED], attesting to buying seafood from claimant; and
 - c. Letter estimating claimant's loss of profits from not being able to sell seafood to [REDACTED] at \$7,700.00;
- 5) 3 page fax from Office Depot, dated 14 December 2010, including
 - a. Cover page
 - b. Letter reiterating substance of claimant's previous fax;
 - c. Claimant letter to NPFC dated 11 August 2010;
 - d. Claimant hardship letter (undated);
 - e. Copy of claimant's Alabama Conservation License for Residential Disability Fishing (freshwater / Saltwater);
 - f. Copy of claimant's Alabama driver's license;
 - g. Copy of claimant's social security card;
 - h. Notarized statement from [REDACTED], attesting to buying seafood from claimant; and
 - i. Receipts from [REDACTED].

Claimant seeks \$14,600.00, claimed as the cost of fish and shrimp that he would have caught and eaten or sold for profit during a six month period if the spill had not occurred. Of this \$14,600.00, approximately \$12,000.00 is his alleged loss of profits due to his inability to sell his catch.

On 22 June 2010, claimant originally filed a claim with BP. On 27 August 2010, claimant filed for an Emergency Advance Payment through GCCF in the amount of \$14,400.00 for loss of subsistence use of natural resources. GCCF assigned him Claimant ID # [REDACTED] and GCCF Claim # [REDACTED] to his claim for loss of subsistence use of natural resources. On 25 October 2010, GCCF denied this claim.

On 24 November 2010, Claimant filed a claim for loss of subsistence use of natural resources with the NPFC in the amount of \$14,600.00.

NPFC Determination

Both Claimant's subsistence claim and his lost profits and earnings claims are denied for the reasons set forth below.

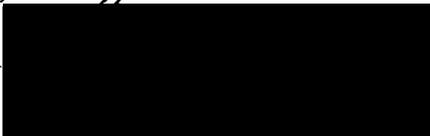
Subsistence Use Loss and Natural Resources Damages

Claimant has not met his burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part §136). Specifically, he—

- (1) has not provided sufficient information to demonstrate that he is a subsistence user. The fishing license that Claimant provided is valid from 12 July 2010⁴ forward. He did not provide a valid license for the period prior to 12 July 2010, which would demonstrate he was eligible to catch fish and shrimp to support a regular, lawful pattern of catch that he or his family relied upon to meet the minimum necessities of life. Claimant asserts that he attempted to get proof of a license for the period prior to 12 July 2010, but it was not available;
- (2) seeks compensation for a six month period of loss⁵, which exceeds the closure period in his area. This indicates that at least a portion of his claimed loss resulted from his choice not to fish or shrimp rather than the Deepwater Horizon oil spill; and
- (3) has not provided sufficient documentation to support the dollar amount of subsistence use claimed. The NPFC cannot determine how the claimed amount of \$14,600 was arrived at from the supporting documentation. In a 27 December 2010 correspondence to the Claimant, the NPFC specifically asked for a detailed accounting or spreadsheet to explain the claimed amount. This information was not provided.

Lost Profits and Impairment of Earning Capacity

Claimant's lost profits claim is also denied because he did not produce an Alabama commercial fishing or shrimping license. Claimant provided a copy of his resident disabled fishing license (saltwater and freshwater). Alabama residents who hold resident fishing licenses pursuant to ALC §§ 9-11-53 and 53.1 (1975) are authorized to take fish from Alabama public waters. The NPFC confirmed with the Alabama Department of Conservation and Natural Resources that a resident may not sell fish that he or she catches without a resident commercial fishing license.⁶ This requirement only applies for seafood caught from the saltwaters of Alabama. A similar requirement applies for commercial shrimping.⁷ Claimant's resident disability fishing license for saltwater and freshwater is not a commercial fishing or shrimping license. Further, even if the Claimant was involved in the lawful commercial harvesting of fish, Alabama Code § 9-12-115 requires an Alabama licensed seafood dealer to report landings to the Alabama Department of Conservation and Natural Resources. Claimant has not provided any proof that he landed his catch in compliance with Alabama law. Claimant's inability to profit from selling in violation of Alabama licensure laws is not a compensable loss under the Oil Pollution Act.⁸

Claim Supervisor: 

Date of Supervisor's review: 2/2/11

Supervisor Action: Denial Approved

Supervisor's Comments:

⁴ There is no expiration on disability fishing licenses in Alabama. Therefore, the disability license purchased by Claimant in July 2010, would not have been a renewal of an existing disability license, but some other type of fishing license that he has not provided or described.

⁵ The NPFC conservatively estimates the loss period to be from 20 April 2010 until 20 October 2010.

⁶ The NPFC confirmed this licensure requirement with the Alabama Department of Conservation and Natural Resources on 15 December 2010.

⁷ Alabama offers commercial shrimp boat licenses for boats smaller than 30 feet, between 30 and 45 feet, and over 45 feet.

⁸ Given this ground for denial, the NPFC need not address the sufficiency of Claimant's evidence for his lost profits and earning capacity claim.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

VIA MAIL AND EMAIL: [REDACTED]

5890/DWHZ
Claim # N10036-0141
24 January 2011

Re: Claim Number: N10036-0141

Dear Ms. [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of earnings you presented in your claim was a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0141.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	11 January 2011
Claim Number	N10036-0141
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$21,715.31

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, Ms. [REDACTED] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form for lost profits & earnings claim in the amount of \$21,715.31 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted that her earnings from two jobs were reduced as a result of the Deepwater Horizon incident.

At the time of the Deepwater Horizon incident, Claimant was working for [REDACTED] and [REDACTED] both located in Metairie, Louisiana. Claimant's primary employment was with [REDACTED] as a full time Office Manager working 40 hours per week¹. Claimant was hired by [REDACTED] during March 2010 and was ultimately laid-off during July 2010. Claimant stated that she was terminated from her employment because her employer's business had declined following the Deepwater Horizon incident. [REDACTED] performs tree trimming and removal services, which the Claimant asserted was negatively impacted by declines in general economic conditions.

Prior to working at [REDACTED] Claimant was a full-time college student and worked several part time jobs at various bars and restaurants, including [REDACTED]. Claimant had been working at [REDACTED] since at least 2009 and was working evenings 4 days a week, concurrently while employed by [REDACTED]. Claimant indicated her intentions of leaving the service industry after graduating from college, but decided to keep her employment at [REDACTED] to supplement her income in order to repay student loans. Claimant asserted that the restaurant's business declined following the Deepwater Horizon

¹ See, letter from Claimant to NPFC dated 13 December 2010. Claimant provides an explanation of her work history and claimed impacts resulting from the Deepwater Horizon incident.

incident, causing her employer to reduce her work hours and causing her to earn less tip income. Claimant stated that after having her work hours reduced and earning fewer tips, she was laid-off by [REDACTED] on 16 November 2010.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form on 24 November 2010, a copy of the emergency advance payment notice from GCCF², a letter explaining her employment and claim, various letters from previous employers, 2010 earnings statements and her 2009 tax return.

Claimant submitted an initial claim with the GCCF on 14 October 2010 and was issued identification # [REDACTED]. GCCF approved an emergency advance payment of \$4,200.00 on 23 October 2010. As of 13 December 2010, Claimant has not filed for a final payment from GCCF. Claimant believes that GCCF did not consider all the documentation provided when calculating the emergency advance payment.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the Claimant's assertions, she claimed reduced earnings from two jobs held at the time of the Deepwater Horizon incident. Claimant's primary employment was with [REDACTED]. Although Claimant asserted that she was laid-off due to her employer's declining business, she has not provided documentary evidence to support that her employer was directly impacted by the Deepwater Horizon incident. The documentation provided does not positively identify that her employer's business was directly impacted by the Deepwater Horizon incident. Therefore, the alleged loss of earnings by the Claimant associated with her employment with [REDACTED] is denied because she has failed to demonstrate that the loss was a direct result of the Deepwater Horizon incident.

Claimant asserted that her second job with [REDACTED] was also impacted by the Deepwater Horizon incident, causing her work hours and tips to decline. Claimant provided her earnings statements from 2010 and a W-2 statement from 2009 to support her earnings from [REDACTED]. When comparing the 2010 income to the prior year, overall income appears to be consistent. Claimant asserted that her work hours were reduced by over 50%. Based on the hourly wages reported on Claimant's earnings statements, it is not apparent that there was a reduction in hours or wages. Claimant also asserted that she earned reduced tip income. The basis for this portion of her claim is the tip income earned during the months of January through May 2010. Based on the information provided, the NPFC does not have sufficient information to determine how her employer distributes the collected tips, how the tips fluctuate based on the seasonality of the business, or if the tips are solely based on the individual earnings rather than the business. Therefore, any claimed loss in tip income is not supported by record using the documents provided.

The claim is denied because the Claimant has not provided evidence that her total claimed losses in the amount of \$21,715.31 were directly related to the Deepwater Horizon incident and the Claimant has received some compensation from the RP.

² Claimant received an emergency advance payment notice from the GCCF dated 23 October 2010 indicating an approved payment of \$4,200.

Claim Supervisor: 

Date of Review: *1/24/11*

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937
5890

1/31/2011

BY MAIL AND EMAIL

[REDACTED]

[REDACTED]

RE: Claim Number: N10036-0142

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0142 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0142.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form
09/13/11

FOIA2001-3380-0000589

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 31, 2011
Claim Number	: N10036-0142
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$70,000.00

FACTS:

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 24, 2010, Mr. [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$70,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his work assignment as an offshore worker with [REDACTED] in Harvey, Louisiana as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 21, 2010
- Personal hardship letter
- Hardship letter from [REDACTED] dated November 5, 2010
- 2008 & 2009 U.S. Individual Income Tax Return
- W-2 Wage and Tax Statement for 2009
- Unemployment benefits summary
- Photocopy of Driver's License and Social Security Card
- Earnings Statements from [REDACTED]
- Earnings Statements from [REDACTED]

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced and he was ultimately terminated in August 2010 as a result of the Deepwater Horizon Incident. The 2010 earning statements provided show a reduction in earned wages immediately after the Deepwater Horizon Incident, but the earned wages increased again in May 2010 through July 2010. There does not appear to be a correlation between the reduced wages and the Deepwater Horizon Incident as the Claimant suggested. The Claimant has not provided additional documents to support that he was terminated as a direct result of the Deepwater Horizon Incident therefore this claim is denied because the Claimant has failed to meet his burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: 

Date of Supervisor's review: *1/31/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: 

5890/DWHZ
Claim # N10036-0143
09 February 2011



RE: Claim Number: N10036-0143

Dear 

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim relating to the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0143.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	09 February 2011
Claim Number	N10036-0143
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$44,949.10

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 07 December 2010, [REDACTED] Claimant), presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking lost profits and earnings in the amount of \$44,949.10. The Claimant asserts that she was not able to earn rental income on her property due to the Deepwater Horizon incident.¹

The Claimant owns and rents for income, a residential real estate property located in Navarre, Florida. The Claimant and her family resided in the subject property until 18 January 2010, at which time the property was made available for rent. The Claimant entered into an agreement on 01 February 2010 to lease the property to a group of six tenants from the date of the agreement until 17 December 2010 (10 1/2 months).² The property itself is a four bedroom singly family home. The terms of the lease were based on weekly payments of \$1,600 per week. The lease agreement did not contain a clause or option for tenants to terminate the lease prior to its intended end date. The Claimant asserts that due to the Deepwater Horizon incident and its impacts on the local tourism industry, several of the tenants earned reduced income and could no longer afford to meet their lease payments.³ The Claimant states that as of 01 July 2010, the tenants could not afford to continue making payments and vacated the property. The Claimant asserts that the property has been vacant since 01 July 2010 as they have not been able to find other tenants.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33

¹ Claimant Optional OSLTF Claim Form Fax Submission Date of 06December 2010

² Lease Agreement between Claimant and Lessees dated 01 February 2010 for real property located at [REDACTED] Navarre, Florida.

³ Letter from Claimant to GCCF dated 05 December 2010.

U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted:

- NPFC OSLTF Claim Form dated 07 December 2010,
- A copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated 30 November 2010,
- Pentagon Federal Credit Union Bank statements;
- Documentation on change of duty station;
- Documentation regarding 16 questions and answers;
- Proof of mortgage;
- Proof of ownership;
- Rental property listing;
- 2007-2009 tax documentation;
- GCCF letter dated 05 December 2010 from claimant explaining "previous vagueness;"
- Income/expense 2010 for subject property; and
- Subject property details;

The Claimant seeks lost profits and earnings in the form of rental payments that she alleges were lost when her tenants could not afford to make their contractually agreed upon rental payments due to their own financial hardships resulting from the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF and was assigned Claimant Identification [REDACTED] and EAP Claim [REDACTED]. On 30 November 2010, the GCCF denied Claimant's EAP claim.⁴

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The subject claim arises from a contractual agreement between Claimant and a group of lessees. The tenants of the property abandoned the lease agreement prior to the defined terms of the lease. The lease agreement was binding until 17 December 2010 and it did not provide a clause or option for tenants to terminate the lease early. There is an existing legal obligation for tenants to meet the written terms of the lease agreement. Claimant did not rent out the property prior to this lease. Therefore, there is no historical data to show the potential rental income for this property over an extended period of time.

The rental property was not marketed as a short term vacation rental, but suited for longer term leases. The Claimant stated that the property itself was not located in a tourist driven area.⁵ The Claimant asserts that her tenants held seasonal jobs within the tourism industry and were impacted by the Deepwater Horizon incident. Furthermore, the Claimant suggests that the incident "affected most people either directly or indirectly."

Aside from the existence of a legally binding contract, the Claimant has not provided documentation to confirm the reason for the tenants vacating the lease. As such, there could be various personal reasons for tenants to vacate the lease, reasons other than the affects of the Deepwater Horizon incident.

The claim is denied because the evidence presented does not prove that the alleged is due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. The Claimant's alleged loss of profits is the result of the tenant's decision to vacate their agreement with the Claimant.

Claim Supervisor: [REDACTED]

Date of Review: 2/9/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

⁴ GCCF denial letter dated 30 November 2010.

⁵ Letter from Claimant to NPFC (undated) in response to questions and requests for additional information.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937
5890

Claim # N10036-0145
12 January 2011

BY MAIL AND EMAIL

RE: Claim Number: N10036-0145

EMAIL: [REDACTED]

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0145 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0145.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000597

CLAIM SUMMARY / DETERMINATION FORM

Date	: 11 January 2011
Claim Number	: N10036-0145
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$10,931.60

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues.

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

On 29 November 2010 [REDACTED] presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$10,931.60 in lost earnings resulting from the Deepwater Horizon incident. [REDACTED] is an

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

offshore barge foreman in the oil industry and is claiming lost wages due to receiving reduced hours as a result of the moratorium.

██████████ provided a letter dated 01 September 2010 where employer, ██████████, stated that ██████████ is a full-time employee hired on 14 May 2010 and engaged in oilfield related work. ██████████ work schedule was reportedly being reduced from a 28 days on / 14 days off schedule to a 14 days on / 14 days off schedule due to the “impact of the oil spill and resultant changes to the MMS (Minerals Management Services).”² The letter further states the delay in the issuance of permits by the “BOEM” has “resulted in the inability of our company to offer their usual compensation.”³

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant’s income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant’s profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertake, but reasonably available;

² Letter dated 01 September 2010 from ██████████ Marine Division Manager, ██████████

³ Letter dated 01 September 2010 from ██████████ Marine Division Manager, ██████████

- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation: NPFC OSLTF Claim form dated 29 Nov 2010; Letter from [REDACTED], Marine Division Manager of [REDACTED] dated 01 September 2010 stating that Claimant has been employed since 14 May 2010 and that Claimant's work schedule is being reduced to 14/14 (14 days on, 14 days off) work schedule; Claimant's Status Notice dated 29 November 2010 from GCCF stating denial of claim GCCF Claim # [REDACTED]; and, Fourteen (14) pay stubs: [REDACTED] period 03 May 2010 through 14 November 2010.

Claimant has been denied by both the GCRPF and the GCCF and has presented his claim to the OSLTF seeking compensation for his lost earnings related to his position as a barge foreman in the offshore oil industry.

Claimant submitted to the GCCF on 22 September 2010 and was issued Claimant ID # [REDACTED] and Claim # [REDACTED]. On 28 September 2010 Claimant was referred to the GCRPF. Claimant appealed and was subsequently denied by the GCCF on 23 October 2010. The NPFC verified the Claimant's status with the GCCF.

NPFC Determination

The claim is denied. Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The NPFC reviewed all of the documentary evidence submitted by the Claimant.

The claim is denied because all of the documentary evidence indicates that his lost earnings resulted from the six-month deepwater drilling moratorium and subsequent permitting delays associated with the BOEMRE permitting process. Claimant's loss, therefore, did not occur because of the Deepwater Horizon incident, but because a determination was made and a directive issued by the Department of the Interior to enact a six-month moratorium to implement new safety requirements and because of the follow on permitting activities required by that agency.⁴

Claim Supervisor: [REDACTED]

Date: 1/12/11

Supervisor's Actions: Official Approval

Supervisor's Comments:

⁴ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject *Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf*. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

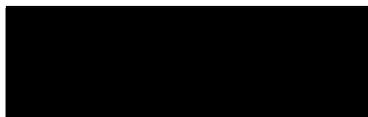
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0146
23 February 2011



Re: Claim Number: N10036-0146

Dear [REDACTED]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0146 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0146.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-0000601

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0146
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$14,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 28 November 2011 [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$14,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil-spill.

Claimant is currently employed by [REDACTED] which provides commercial diving services. The Claimant asserted that he works on a vessel known as The Gulf Freedom,¹ which ferries [REDACTED] divers to work sites throughout the Gulf.² Claimant further asserted that as a result of the Deepwater Horizon oil-spill, "our [REDACTED] divers could not enter the water, causing [REDACTED] to either put off JOBS, or . . . companies just cancell[ing] [contracts with [REDACTED]]."³

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

¹ The [REDACTED] Gulf Freedom is a 192 foot offshore support vessel modified for diving operations.

² Email from [REDACTED] (Claimant's wife) to GCCF, dated 26 October 2010.

³ OSLTF Claim Form dated 28 November 2010. The NPFC notes that the Claimant does not specifically describe how an impact on MADCON's business has affected him as an employee.

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

In support of his claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form, signed by Claimant and dated 28 November 2010;
- Federal income tax returns (1040s) for 2007, 2008 and 2009
- 2007 W-2s from South East Employee Leasing and Home Safety Services, Inc.;
- 2008 W-2s from [REDACTED] and [REDACTED]
- Paystub from [REDACTED] for the period ending 07 November 2010;
- Emails from N [REDACTED] (Claimant's spouse) to the GCCF dated 26 October 2010, 09 October 2010, and 24 September 2010 (2);
- Letter from [REDACTED] president of [REDACTED] describing reduction in work load subsequent to the Deepwater Horizon oil spill, dated 11 August 2010;
- Fax from Claimant to NPFC informing that he cannot provide any letters from his employer stating that specific jobs were cancelled due to the oil spill, dated 18 February 2011; and
- GCCF letters to Claimant dated 24 January 2011, 26 January 2011, 29 January 2011, 04 September 2010, 23 September 2010, and 23 October 2010.

The Claimant seeks \$14,000.00 in lost earning allegedly as a result of the Deepwater Horizon incident.

On 23 August 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$15,155.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [REDACTED] and Claim [REDACTED]. This claim was denied on 23 October 2010. This information was verified by the NPFC.⁴

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all documentation presented by the Claimant.

Claimant has not proven that his hours have been curtailed or his income reduced as a direct result of the Deepwater Horizon incident. Claimant presented a letter from the President of [REDACTED] stating that “[a]s a result of the 2010 BP Oil Spill, our workload has been drastically reduced due to projects getting canceled or indefinitely postponed.” The letter did not, however, specifically reference how the spill has impacted the Diving Support Vessel (DSV) [REDACTED] operations and crew.⁵

The Claimant has been unable to provide a more definitive statement from his employer in this regard.⁶ The one piece of 2010 financial information presented by Claimant, a paystub for the period ending 07 November 2010, also belies the notion that Claimant’s hours or earnings have been reduced in the wake of the oil-spill. Claimant’s gross annual earnings as of 07 November 2010 were \$45,045, suggesting average monthly gross income of approximately \$4,390. At this rate, Claimant’s 2010 gross annual income is on par with his 2008 and 2009 gross earnings. Accordingly, Claimant has not proven that he suffered an economic loss caused by the Deepwater Horizon incident.

Claim Supervisor: [REDACTED]

Date of Supervisor’s Review: 2/23/11

Supervisor’s Actions: *Denial approved*

Supervisor’s Comments:

⁴ The Claimant has an Interim and a Final Payment claim under review at the GCCF.

⁵ Letter from [REDACTED] president of [REDACTED] describing reduction in work load subsequent to the Deepwater Horizon oil spill, dated 11 August 2010.

⁶ Fax from Claimant to NPFC informing that he cannot provide any letters from his employer stating that specific jobs were cancelled due to the oil spill, dated 18 February 2011.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [REDACTED]

5890/DWHZ
Claim# N10036-0147
18 February 2011



RE: Claim Number: N10036-0147

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0147 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

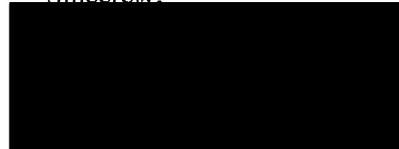
You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0147.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	17 February 2011
Claim Number	N10036-0147
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$45,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 07 December 2010, [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) Claim Form requesting reimbursement from the National Pollution Fund Center (NPFC) in the amount of \$45,000. Claimant alleged damages resulting from the Deepwater Horizon incident.

The Claimant's OSLTF Claim Form stated that he is in the construction business and that customers stopped calling for work to be done. No additional information or explanation has been provided.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented an OSLTF Claim form dated 07 December 2010.

On 22 December 2010, the NPFC sent a letter to the Claimant requesting additional information in order to obtain the necessary information to be able to adjudicate the claim. The Claimant has not responded to the request for additional information. The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered 04 January 2011.

Claimant has asserted lost earnings and wages in the amount of \$45,000.00.

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID [REDACTED] and Claim [REDACTED]. GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation submitted by the Claimant.

The Claimant has not provided the additional documentation to support the claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet the burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor 

Date of Supervisor's Review: *2/18/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937

5890

2/8/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
New Orleans, LA 70115

RE: Claim Number: N10036-0148

Dear Ms. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0148 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0148.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000609

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/3/2011
Claim Number	: N10036-0148
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$6,400.00

FACTS:

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 2, 2010, Ms. [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$6,400.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from employment as a Server Assistant while employed by [REDACTED] as a result of the Deepwater Horizon incident.

The Claimant presented a claim to the GCCF under claimant identification # [REDACTED] which was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

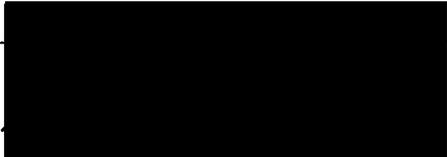
- NPFC OSLTF Claim Form dated November 29, 2010;
- Personal statement regarding situation dated November 29, 2010;
- Miscellaneous pay stubs ranging from March 12, 2010 through October 22, 2010;
- A letter from [REDACTED] (employer) dated December 15, 2010.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon Incident. The NPFC sent a request for additional information via certified mail to the Claimant dated December 17, 2010 to assist in the adjudication of the claim. The NPFC gave the Claimant 14 days to submit the requested information in support of her claim.

The Claimant has not provided any of the additional documentation nor has she answered any of the questions to support her claim and alleged loss. Therefore, this claim is denied because the Claimant has failed to meet her burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: 

Date of Supervisor's review: 2/4/11

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD.



CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [REDACTED]

5890/DWHZ
Claim# N10036-0149
24 March 2011



RE: Claim Number: N10036-0149

Dear [REDACTED]

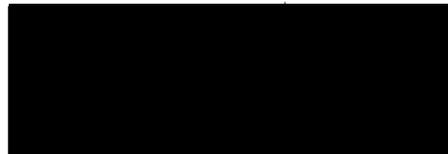
The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0149 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0149.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



Lieutenant Commander
U. S. Coast Guard Reserve
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	23 March 2011
Claim Number	N10036-0149
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$5,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010 ([REDACTED] Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$5,000 in lost profits and earning capacity allegedly caused by the Deepwater Horizon oil spill.

The claimant stated that she previously worked as a housekeeper and personal caretaker for two different individuals. According to the Claimant's submission, the first individual employed the Claimant from 01 March 2010 until 10 July 2010 at a rate of \$7.50 an hour. In the wake of the oil spill, the Claimant asserted that her hours with this individual were reduced from 25 per week to 10 per week. The second individual employed the Claimant from 05 April 2010 to 17 June 2010, paying her \$60 weekly for three days of work. The Claimant asserted that her employment with the second individual was terminated because of the oil spill.¹

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

¹ Letter from Claimant dated 06 December 2010.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

Under 33 C.F.R. 136.9, falsification of claims, persons submitting false claims or making false statements in connection with claims under this may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant presented the following documentation to the NPFC:

- The aforementioned OSLTF claim form, signed by Claimant and dated 29 November 2011;
- Handwritten note from Claimant's former employer attesting to period of employment and weekly compensation, dated 18 November 2010²;
- Handwritten note from Claimant's former employer attesting to period of employment and hourly rate, dated 15 November 2010³;
- Federal individual income tax return (form 1040) for 2008 and 2009;
- Alabama Department of Industrial Relations electronic form 1099 for 2009;
- Social Security Card;
- Alabama Driver's License;
- Letter from Claimant explaining nature of 2010 employment, dated 07 December 2010;
- Alabama Department of Industrial Relations unemployment compensation records;
- Request for supporting documentation from the Gulf Coast Claims Facility, dated 14 October 2010;
- Account records from unknown bank.

² See, Claimant admission statement dated March 21, 2011 to Special Agent [REDACTED] of ADIR

³ *Id.*
09/13/11

Claimant previously presented an Emergency Advance Payment (EAP) claim to the GCCF on 30 September 2010 in the amount of \$2,500, and was assigned Claimant II [REDACTED] and Claim [REDACTED]. That claim was denied on 24 November 2010. The Claimant presented Interim Payment and Final Payment claims, which were assigned claim numbers [REDACTED] and [REDACTED] respectively, and are currently awaiting determination.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. 136.9, falsification of claims, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim. The NPFC considered all of the documentation submitted by the Claimant.

The documentation presented by the Claimant indicated that she continued collecting unemployment through 04 May 2010, which would have necessitated that she certify her unemployment through that period to the Alabama Department of Industrial Relations (ADIR), thereby directly contradicting the claimed dates of employment.⁴ The NPFC contacted the ADIR which verified that the Claimant had, in fact, certified she was unemployed during the period that she claimed she was employed to NPFC. ADIR subsequently launched an investigation into the Claimant's activities based on the NPFC's inquiry.

During the ADIR investigation, the Claimant admitted to ADIR investigators that she falsified her claim to the NPFC including making false statements on her OSLTF claim form. The Claimant provided ADIR investigators a signed written statement confessing her perpetuation of the fraud against the NPFC.⁵

Accordingly, the claim is denied because the Claimant has admitted to making false statements to the U.S. Coast Guard in connection with her claim in order to receive compensation.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 3/24/11

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

⁴ See Certified and True Copy of Ala [REDACTED], dated 19 May 2010 (listing date of issuance for last payment in the amount of \$206.00 as 04 May 2010). This record indicates that Claimant received \$3,708 in unemployment benefits through 19 May 2010. NPFC attained a copy of Claimant's 1099G from the Alabama Department of Industrial Relations, which states her unemployment compensation for 2010 was \$4,158, suggesting that she continued to collect unemployment through June 2010.

⁵ Admission statement signed by Claimant, dated 21 March 2011.

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

5890
1/13/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0150

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0150 involving Deepwater Horizon. Please see the attached Claim Summary / Determination for the details regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0150.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000617

CLAIM SUMMARY / DETERMINATION FORM

Date	January 13, 2011
Claim Number	N10036-0150
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$4,000.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 30, 2010, the NPFC received an Oil Spill Liability Trust Fund (OSLTF) claim form from [REDACTED] (Claimant). The Claimant is presenting a loss of profits & earnings claim in the amount of \$4,000.00 to the National Pollution Funds Center (NPFC) for reimbursement of lost wages.

Claimant provided documentation showing that she had been employed by [REDACTED] Inc. in Theodore, Alabama as a contractor and by [REDACTED] as a clean-up worker. The claimant does not provide any explanation as to how her income was affected as a result of the Deepwater Horizon incident.

The GCCF assigned Claimant identification [REDACTED]. The Claimant indicates on her OSLTF claim form that she has been denied by the GCCF although no denial letter has been provided in her claim submission.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is

a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the following documentation:

- OSLTF claim form dated November 22, 2010
- Copy of the Claimant's 2009 W-2 Wage and Tax Statements
- Copy of the Claimant's 2009 IRS 1040EZ with a gross income \$14,469.00
- Photocopy of Alabama driver's license and Social Security Card
- Hardship letter (not Dated)
- Hardship letter from [REDACTED] of the [REDACTED] Baptist Church
- Payroll stubs from [REDACTED] dated May 28, 2010, June 4, 2010, June 30, 2010 and August 20, 2010.

- Payroll stubs from [REDACTED] dated September 3, 2010, September 10, 2010, and September 17, 2010 at a gross income of \$2,529.00.

NPFC Determination

The claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant's one page statement does not demonstrate, nor do the other records provided demonstrate, that the Claimant suffered a loss of income due to the Deepwater Horizon incident.

Furthermore, the NPFC contacted [REDACTED] who confirmed that the Claimant grossed \$16,095.50 in 2010 and was employed as recently as December before being terminated for not reporting to work. In addition to the salary the Claimant grossed from [REDACTED] she grossed another \$2,529.00 from [REDACTED] in September 2010. The total combined is \$4,155.50 more than the Claimant earned in tax year 2009.

The claim is denied because the evidence provided by Claimant, as described above, does not establish that she has incurred a loss or that the alleged loss (if one had occurred) was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: *1/13/11*

Supervisor's Action: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

E-mail:

Fax: 202-493-6937

5890
1/19/2011

VIA MAIL and EMAIL

RE: Claim Number: N10036-0151

Dear

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0151 involving Deepwater Horizon. Please see the attached claim summary for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/11/2011
Claim Number	: N10036-0151
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$62,700.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 29, 2010 the Claimant, [REDACTED] presented a loss of profits and impairment of earning capacity claim in the amount of \$62,700.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] asserted that he was a boat Captain who worked onboard the M/V [REDACTED] for [REDACTED], The Woodlands, TX 77380, and that he was released from his employer due to work being unavailable as a result from the Deepwater Horizon Incident. He claimed lost earnings and wages in the amount of \$62,700.00 due to his loss of income.

On December 16, 2010, the NPFC denied the claim on the grounds that the Claimant had not met his burden to establish a loss of profits as a direct result of the Deepwater Horizon incident.

REQUEST FOR RECONSIDERATION

On December 21, 2010, the Claimant sent an email request for reconsideration to [REDACTED] stating he did not request compensation for losses during the months of January, February or March 2010. He has requested compensation for April 2010 forward when work generally picks up. Claimant has not provided any new information to support his request for reconsideration.

DETERMINATION on RECONSIDERATION

NPFC Initial Determination

On December 16, 2010, the NPFC issued a denial on this claim on the grounds that he was terminated by [REDACTED] on 18 January 2010, more than three months prior to the Deepwater Horizon incident. Mr. [REDACTED] of [REDACTED] Marine LLC stated that the Claimant was

terminated for a poor work performance. Thus, the Claimant's asserted loss of profits was not a result of the Deepwater Horizon incident.

The initial determination to deny the claim also noted that under 33 C.F.R. 136.9, Falsification of claims, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim. The Claimant has submitted an intentionally fake document in conjunction with his claim submission for which the NPFC was able to obtain from Claimant's previous employer, a true copy of separation notice and reason for termination.

NPFC Determination on Reconsideration

The Claimant reiterates in his official request for reconsideration that his separation from employment did not happen until April 2010. He provided no new facts or legal argument to support his request for reconsideration.

The claim is denied on reconsideration.

Claim Supervisor:

Date of Supervisor's review: *1/19/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]

Fax: 202-493-6937

5890
1/19/2011

VIA MAIL and EMAIL: [REDACTED]

[REDACTED]
Houma, LA 70360

RE: Claim Number: N10036-0151

Dear Mr. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0151 involving Deepwater Horizon. Please see the attached claim summary for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[REDACTED]

U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/11/2011
Claim Number	: N10036-0151
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$62,700.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 29, 2010 the Claimant, Mr. [REDACTED], presented a loss of profits and impairment of earning capacity claim in the amount of \$62,700.00 to the National Pollution Funds Center (NPFC) for reimbursement. Mr. [REDACTED] asserted that he was a boat Captain who worked onboard the M/V [REDACTED] for [REDACTED], [REDACTED], TX 77380, and that he was released from his employer due to work being unavailable as a result from the Deepwater Horizon Incident. He claimed lost earnings and wages in the amount of \$62,700.00 due to his loss of income.

On December 16, 2010, the NPFC denied the claim on the grounds that the Claimant had not met his burden to establish a loss of profits as a direct result of the Deepwater Horizon incident.

REQUEST FOR RECONSIDERATION

On December 21, 2010, the Claimant sent an email request for reconsideration to [REDACTED] stating he did not request compensation for losses during the months of January, February or March 2010. He has requested compensation for April 2010 forward when work generally picks up. Claimant has not provided any new information to support his request for reconsideration.

DETERMINATION on RECONSIDERATION

NPFC Initial Determination

On December 16, 2010, the NPFC issued a denial on this claim on the grounds that he was terminated by [REDACTED] on 18 January 2010, more than three months prior to the Deepwater Horizon incident. Mr. [REDACTED] of [REDACTED] stated that the Claimant was

terminated for a poor work performance. Thus, the Claimant's asserted loss of profits was not a result of the Deepwater Horizon incident.

The initial determination to deny the claim also noted that under 33 C.F.R. 136.9, Falsification of claims, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim. The Claimant has submitted an intentionally fake document in conjunction with his claim submission for which the NPFC was able to obtain from Claimant's previous employer, a true copy of separation notice and reason for termination.

NPFC Determination on Reconsideration

The Claimant reiterates in his official request for reconsideration that his separation from employment did not happen until April 2010. He provided no new facts or legal argument to support his request for reconsideration.

The claim is denied on reconsideration.

Claim Supervisor:

Date of Supervisor's review: *1/19/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ

Claim # N10036-0152

08 February 2011

Re: Claim Number: N10036-0152

Dear Mr. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0152 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0152.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000627

CLAIM SUMMARY / DETERMINATION FORM

Date	: 08 February 2011
Claim Number	: N10036-00152
Claimant	: Mr. [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$12,364.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 10 November 2010, Mr. [REDACTED] (Claimant), presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) claiming lost profits and earnings in the amount of \$12,364.00. Claimant was a restaurant worker who was laid off, found other employment, but was laid off again. Claimant asserts that he earned reduced wages and commissions as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for

09/13/11
ENCLOSURE

FOIA2001-3380-0000628

profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted:

1. NPFC OSLTF Claim form submitted 01 December 2010
2. To Whom It May Concern letter from the Claimant fax dated 30Nov2010 documenting lay off beginning May 2010, start of work for [REDACTED] as Spill Responder beginning June 2010, and lay off from response end of July 2010.
3. Letter verifying employment with [REDACTED] fax dated 30 Nov 2010
4. The Claimant's Pay Stub from [REDACTED] for pay period 3/15/2010 to 3/21/2010.
5. The Claimant's Pay Stub from [REDACTED] for pay period 7/05/2010 to 7/11/2010.
6. 2008 IRS Form W-2 from employer [REDACTED] to The Claimant's

At the beginning of May 2010, the Claimant asserts that he was laid off from a restaurant that lost business because of the oil spill. The Claimant stated that after a couple of weeks of vigorous searching, he started working for a company called [REDACTED] on the oil spill. The Claimant asserts that he was promised 2 years worth of work on the Gulf Coast Oil Spill at the beginning of June. At the end of July, the Claimant was released from the response effort.¹ Claimant alleges that he was laid off from his restaurant position and from his employment with [REDACTED] as a result of the Deepwater Horizon incident.

On 06 October 2010, the Claimant filed a claim with GCCF for an Emergency Advance Payment and was issued Claimant ID # [REDACTED] and EAP Claim # [REDACTED]. On 23 November 2010, the GCCF denied his EAP claim.

¹ Claimant's Optional OSLTF Claim Form submitted on 01 December 2010 and employment verification letter from [REDACTED] fax dated 30 Nov 2010.

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation presented by the Claimant.

Claimant has not provided sufficient documentation to substantiate that his earnings were impacted as a result of the Deepwater Horizon incident. For example, Claimant provided only a single pay stub relating to his restaurant job from a month prior to the Deepwater Horizon incident. The Claimant did not respond to the NPFC's request for additional information issued on 16 December 2010, receipt of which was confirmed on 20 December 2010.

The claim is denied because the evidence presented does not establish that the alleged loss, in the amount of \$12,364.00, was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor:



Date of Supervisor's Review: 2/2/11

Supervisor's Action: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]

Fax: 202-493-6937

5890
1/25/2011

VIA MAIL and EMAIL: [REDACTED]@gmail.com

[REDACTED]
Mobile, AL 36603

RE: Claim Number: N10036-0155

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0155 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

Disposition of this reconsideration constitutes final agency action.

Sincerely,

[REDACTED]
Claims Adjudication Division
National Pollution Funds Center
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/25/2011
Claim Number	: N10036-0155
Claimant	: [REDACTED]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$296,182.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 30 November 2010, [REDACTED] (Claimant) presented a claim for lost profits and earnings in the amount of \$296,182.00. The Claimant asserted that his lost profits and earnings resulted from the Deepwater Horizon incident. The Claimant started a new business, [REDACTED], a recycling and container retrieval business in March 2010. The business was formed as a partnership between Claimant and [REDACTED] on 23 March 2010. Subsequently, Claimant entered into a contract with [REDACTED] Environmental whereby [REDACTED] would perform services to [REDACTED] Environmental. The Partnership agreement between the Claimant and [REDACTED] (business partner) was also terminated by Claimant on the same date, 29 June 2010. One week later, on 07 July 2010, the [REDACTED] Environmental contract was terminated by [REDACTED] Environmental.

Claimant asserted that his alleged loss of profits associated with for [REDACTED] was due to the Deepwater Horizon incident. The NPFC denied the claim on January 24, 2010, on the grounds that the Claimant had not established that the loss of profits resulted from the incident. Documentation submitted reflects that any loss of profits was due to Claimant terminating his partnership with [REDACTED] for breach of the partnership agreement. Further, evidence in the record reflects that [REDACTED] Environmental terminated its contract with [REDACTED] because Claimant failed to provide the services and personnel required under the contract. Part of the claim, in the amount of \$155,182, was denied because it represented a future potential loss of profits that could result from a growing business.

Reconsideration Claim Analysis

The claimant requested reconsideration via facsimile on January 24, 2011. To support his request for reconsideration, the claimant provided no new information although he did request to amend his sum certain from \$296,182.00 to \$141,000.00 removing the claim component associated with the prospective losses originally claimed and denied regarding his contractual issue with [REDACTED] Environmental.

The remaining claim component is associated with the Claimant's contractual agreement with one of his investment partners, [REDACTED] whereby he sold her 49% interest in his business venture on March 23, 2010. The agreement calls for payments to be made directly to [REDACTED] at a minimum of \$3,806.00 per week. [REDACTED] failed to meet her obligations under the partnership agreement which resulted in [REDACTED] issuing a Notice to Terminate Partnership dated June 29, 2010 for the following reasons: breach of contractual agreement, insufficient investment capital, and excessive loan denials.

NPFC Determination on Reconsideration

The NPFC again denies the claim because the alleged loss is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. The alleged loss was caused by a failed partnership agreement dated March 23, 2010 between the Claimant and [REDACTED]. Such a loss is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [REDACTED]

Date of Supervisor's review: 1/25/11

Supervisor Action: *Denial on reconsideration approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]

Fax: 202-493-6937

5890
1/25/2011

VIA MAIL and EMAIL: [REDACTED]

RE: Claim Number: N10036-0155

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0155 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

Disposition of this reconsideration constitutes final agency action.

Sincerely,

[REDACTED]
Claims Adjudication Division
National Pollution Funds Center
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/25/2011
Claim Number	: N10036-0155
Claimant	: [REDACTED]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$296,182.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 30 November 2010, [REDACTED] (Claimant) presented a claim for lost profits and earnings in the amount of \$296,182.00. The Claimant asserted that his lost profits and earnings resulted from the Deepwater Horizon incident. The Claimant started a new business, [REDACTED], a recycling and container retrieval business in March 2010. The business was formed as a partnership between Claimant and [REDACTED] on 23 March 2010. Subsequently, Claimant entered into a contract with [REDACTED] Environmental whereby [REDACTED] would perform services to [REDACTED] Environmental. The Partnership agreement between the Claimant and [REDACTED] (business partner) was also terminated by Claimant on the same date, 29 June 2010. One week later, on 07 July 2010, the [REDACTED] Environmental contract was terminated by [REDACTED] Environmental.

Claimant asserted that his alleged loss of profits associated with for [REDACTED] was due to the Deepwater Horizon incident. The NPFC denied the claim on January 24, 2010, on the grounds that the Claimant had not established that the loss of profits resulted from the incident. Documentation submitted reflects that any loss of profits was due to Claimant terminating his partnership with [REDACTED] for breach of the partnership agreement. Further, evidence in the record reflects that [REDACTED] Environmental terminated its contract with [REDACTED] because Claimant failed to provide the services and personnel required under the contract. Part of the claim, in the amount of \$155,182, was denied because it represented a future potential loss of profits that could result from a growing business.

Reconsideration Claim Analysis

The claimant requested reconsideration via facsimile on January 24, 2011. To support his request for reconsideration, the claimant provided no new information although he did request to amend his sum certain from \$296,182.00 to \$141,000.00 removing the claim component associated with the prospective losses originally claimed and denied regarding his contractual issue with [REDACTED] Environmental.

The remaining claim component is associated with the Claimant's contractual agreement with one of his investment partners, [REDACTED] whereby he sold her 49% interest in his business venture on March 23, 2010. The agreement calls for payments to be made directly to [REDACTED] at a minimum of \$3,806.00 per week. [REDACTED] failed to meet her obligations under the partnership agreement which resulted in [REDACTED] issuing a Notice to Terminate Partnership dated June 29, 2010 for the following reasons: breach of contractual agreement, insufficient investment capital, and excessive loan denials.

NPFC Determination on Reconsideration

The NPFC again denies the claim because the alleged loss is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. The alleged loss was caused by a failed partnership agreement dated March 23, 2010 between the Claimant and [REDACTED]. Such a loss is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [REDACTED]

Date of Supervisor's review: 1/25/11

Supervisor Action: *Denial on reconsideration approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

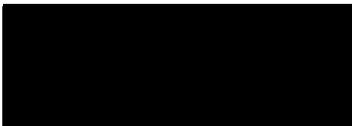
NPFC CA MS 7100
US COAST GUARD



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0156
28 February 2011



RE: Claim Number: N10036-0156

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0156. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0156.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U.S. Coast Guard
Claims Manager

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0156
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$16,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, Ronald Morris (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking \$16,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

The Claimant asserted that he was on an offshore rig working for Transocean and Shell prior to the Deepwater Horizon incident. The Claimant further asserted that he went on leave and when he returned, the Deepwater Horizon incident occurred and the moratorium on deepwater drilling was issued shortly thereafter. He alleged that he has been unable to find rig work as a result.¹

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

¹ Claimant's Optional OSLTF submitted on 01 December 2010 and 14 December 2010 phone conversation between Claimant and the NPFC.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant presented the following documentation:

1. NPFC OSLTF Claim form, submitted 7 December 2010;
2. Copy of his LA driver's license and unreadable social security card; and
3. 2008 W-2 with [REDACTED] as employer and 2009 W-2 with [REDACTED] an [REDACTED]

Claimant seeks \$16,000.00 in lost earnings as a result of the Deepwater Horizon incident.

On 09 October 2010, the Claimant filed an Emergency Advance Payment (EAP) claim for \$14,400.00 in lost earnings and profits with the GCCF. The GCCF assigned him Claimant II [REDACTED]. On 18 November 2010, GCCF denied this claim.²

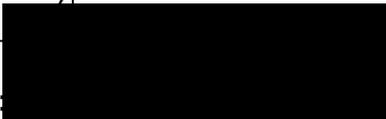
NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation provided by the Claimant.

² Claimant's Optional OSLTF submitted on 01 December 2010 and 14 December 2010 phone conversation between Claimant and the NPFC.

On 30 December 2010, the NPFC sent the Claimant a letter requesting clarification and additional documentation to support his claim. On 03 January 2011, the letter was received and signed for at the Claimant's home of record. To date, the Claimant has not responded to the request for additional information to support the claim. The NPFC accordingly proceeded to adjudicate the claim with the information originally presented.

The claim is denied because the evidence presented does not support the allegation that Claimant's loss is due to the injury, destruction or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil.

Claim Supervisor:  &

Date of Supervisor's Review: *2/27/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0157
10 February 2011

RE: Claim Number: N10036-0157

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0157 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

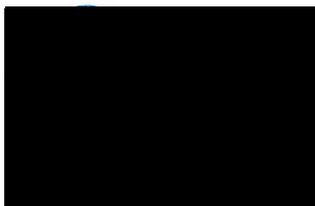
You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0157.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-00000641

CLAIM SUMMARY / DETERMINATION FORM

Date : 10 February 2011
Claim Number : N10036-0157
Claimant : ██████████
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : ██████████
Amount Requested : \$5,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 02 December 2010, ██████████ (Claimant) presented an optional Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking \$5,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

Claimant asserts that she worked for ██████████ in Mississippi from 2009-2010 and made \$1,500.00 a week. Claimant alleges that "I was supposed to stay longer than a year but then when the oil spill hit I got sent back to New Orleans and now my wages went down . . . to \$650.00 a week."¹ Claimant attributes her reduction in pay to the Deepwater Horizon incident.²

Claimant seeks lost wages from her reduction in pay.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233, a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

¹ Letter of explanation from Claimant "To Whom It May Concern" fax dated 02 December 2010.

² Letter of explanation from Claimant "To Whom It May Concern" fax dated 02 December 2010.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission:

To support her claim, claimant submitted the following:

- Optional OSLTF Claim Form;
- 8 pay stubs with [REDACTED] for pay periods ending 31 January 2010, 28 February 2010, 28 March 2010, 25 April 2010, 30 May 2010, 27 June 2010, 25 July 2010, and 24 October 2010;
- 2008 and 2009 IRS Form W-2 for Claimant, Harvey, LA from [REDACTED] Shipbuilding; and
- Letter of explanation from claimant "To Whom It May Concern" fax dated 02 December 2010.

Claimant seeks lost wages from her reduction in pay.

On 20 October 2010, claimant filed an Emergency Advance Payment (EAP) claim for \$5,000.00 in lost earnings with GCCF. GCCF assigned her Claimant ID [REDACTED] and GCCF Claim # [REDACTED] to her EAP claim. On 23 November 2010, GCCF denied this claim.³

³ On 25 November 2010, claimant filed a \$7,000.00 Final Payment Claim for lost earnings with GCCF. This claim is still under review.

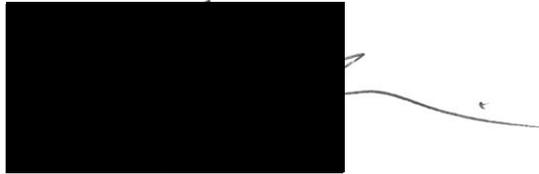
NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

On 29 December 2010, NPFC sent claimant a letter seeking clarification and additional documentation to assist in processing her claim. On 05 January 2011, claimant received and signed for the letter, but to date, she has not responded to it. Consequently, there is no evidence supporting claimant's allegation that her hours were reduced as a result of the Deepwater Horizon incident.

Accordingly, her claim is denied because the evidence does not establish that her losses are due to the injury, destruction or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil.

Claim Supervisor:



Date of Supervisor's Review: 2/10/11

Supervisor's Actions: Denial approved

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0158
28 February 2011



Re: Claim Number: N10036-0158

De: [REDACTED]

The National Pollution Funds Center, in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, payment on claim number N10036-0158 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0158.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-0000645

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 February 2011
Claim Number	: N10036-0158
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$8,400.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$8,400 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.¹

Claimant works for [REDACTED] a neighborhood bar located in the Westbank area of suburban New Orleans, near the Harvey Canal. Claimant assisted the bar's owner, [REDACTED] with renovating the establishment in preparation for its opening on 12 March 2010. After opening, Claimant continued working at the [REDACTED] as a server and bartender, earning \$300 weekly (\$1,200 monthly) plus tips.² Due to its proximity to the Harvey Canal, many of the [REDACTED] patrons are oil and gas industry employees whose business requires that they utilize the canal. Since the Deepwater Horizon oil-spill, Claimant asserted that the [REDACTED] business has dropped, and that she has not been paid her salary since 10 October 2010.³

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §

¹ On 16 December 2010, Claimant resubmitted her OSLTF claim form with answers to previously unanswered questions on the claim form.

² Letter from Claimant to NPFC included with her original submission, dated 28 November 2010.

³ Letter from Claimant to NPFC included with her original submission, dated 28 November 2010; OSLTF claim

136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

In support of her Claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form, signed by Claimant and dated 28 November 2010;
- Letter from GCCF to the Claimant regarding her Emergency Advance Payment, dated 08 November 2010;
- Letter from [REDACTED] describing the location of the [REDACTED] and the impact of the Gulf spill on its business;
- State of Louisiana alcohol license for the [REDACTED] issued 01 March 2010;
- Letter from Claimant to the GCCF explaining that she mistakenly filed her Emergency Advance Payment claim for \$1,200, and that she intended to file for \$6,000, dated 09 November 2010;
- GCCF Supplemental Request Form for Emergency Advance Payments for Lost Earnings or Profits, completed by Claimant and dated 09 November 2010;
- 2008 & 2009 W-2 from [REDACTED];
- 2010 W-2 from [REDACTED];
- 1099-MISC from the GCCF for 2010;

- Federal income tax return (Form 1040) for 2008 and 2009;
- Louisiana state income tax return for 2008 and 2009;
- Earnings statements from [REDACTED] for the periods ending 25 April 2010 through 19 December 2010;
- Letter from Claimant to NPFC explaining the nature of her employment and her previous claim to GCCF, dated 28 November 2010;
- Letter from Claimant to NPFC in response to request for additional information, dated 09 January 2011;
- Capital One bank statements;
- Check from [REDACTED] made out to Claimant for \$2.06, dated 31 March 2009;
- Earnings statements from [REDACTED] for the periods ending 28 December 2008 through 14 December 2009;
- Checks from [REDACTED] made out to Claimant, dated 29 October, 16 November, 26 November, 10 December, and 24 December 2010.

Claimant seeks \$8,400.00 in lost profits and earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 12 October 2010, Claimant initially filed a six-month Emergency Advance Payment (EAP) for \$1,200.00 in lost earnings with the GCCF. She was assigned Claimant ID [REDACTED] and Claim [REDACTED]. Claimant states that at the time she filed this claim, she intended to request \$7,200 for the next six months, but inadvertently claimed only \$1,200, and although she asserts that she attempted to revise this amount with the GCCF, she received a \$1,200 payment on 03 November 2010.

NPFC Determination

The claim is denied because the evidence presented by the Claimant does not demonstrate that claimant's loss was a result of injury destruction or loss of natural resources or real or personal property. It is unclear how the Claimant calculated her alleged lost earnings; however, 33 C.F.R. § 136.235 stipulates that an OSLTF claimant may only recover the actual net reduction or loss of earnings or profits suffered at the time the claim is filed.

The documentation provided by Claimant fails to show that the Claimant lost earnings from the date that she began her employment with the [REDACTED] until the date she presented her claim. A paystub from [REDACTED] for the period ending 25 April 2010 (presented by Claimant on 27 January 2011) shows that payroll for the [REDACTED] began on 12 April 2010. Another paystub from Clemenza for the period ending 19 December 2010 shows that, as of that date, Claimant's gross year-to-date earnings were \$10,800.00. When divided by 34 (the number of weeks between 12 April 2010 and 19 December 2010), Claimant's gross weekly earnings exceed \$300. These financial statements suggest that Claimant continued to earn her regular wages past the date of the Deepwater Horizon oil-spill up to the date she presented her claim; they also belie the notion that Claimant has not been paid since 10 October 2010.⁴

⁴ On her 16 December 2010 submission to the NPFC, Claimant includes her last four pay checks from [REDACTED] and indicates that they "have not been cashed due to a lack of funds at the business." Additionally, three of Claimant's earnings statements from [REDACTED] dated 16 November, 26 November, 10 December and 24 December 2010, have the accompanying paycheck attached and bear the handwritten notation "This check has not been cashed as of 1/11/11." Whether Claimant has been able to cash her checks or not, the fact remains that checks, representing pay for her services, have been issued throughout her employment at [REDACTED]. Furthermore, there is no indication from [REDACTED] that pay checks issued to Claimant

Furthermore, there is no evidence of the amount of tipped income that the Claimant earned while at the [REDACTED] either prior or subsequent to the Deepwater Horizon oil-spill.

Based on the foregoing analysis, the claim is denied.

Claim Supervisor [REDACTED]

Date of Supervisor's Review: *2/27/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

would not be cashable as a result of the Deepwater Horizon oil spill. The totality of the evidence therefore indicates that the Claimant has been paid for services rendered.

09/13/11

FOIA2001-3380-0000649

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [REDACTED]

5890/DWHZ
Claim # N10036-0160
24 February 2011

Re: Claim Number: N10036-0160

Dear [REDACTED],

The National Pollution Funds Center, in accordance with the Oil Pollution Act of 1990, 33 § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0160 involving the Deepwater Horizon oil-spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0160.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-0000650

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 February 2011
Claim Number	: N10036-0160
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$120,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center, (NPFC) seeking \$120,000 in lost profits and earning capacity.¹

At the time of the oil-spill, the Claimant was employed with [REDACTED] as an [REDACTED], and his primary duties included overseeing the safety and quality of undersea construction operations. In March 2010, Claimant was scheduled to begin significant [REDACTED] in the Gulf of Mexico aboard the [REDACTED] a DPS-3 subsea construction vessel under lease from [REDACTED]. In May 2010, the vessel was expected to transit through Mississippi Canyon to South Tiberlier Fields via Main Pass to begin work that was expected to last until October 2010.²

Claimant alleged that the oil-spill prohibited the vessel from transiting to its scheduled work sites, thereby resulting in the loss of his offshore bonus pay.³ Claimant further alleged that as a result of oil-spill related delays, his employment with [REDACTED] was terminated on 20 October 2010.

The Claimant's asserted loss of \$120,000 encompasses the loss of a \$250/day offshore bonus from 01 May 2010 to 19 October 2010 (the day he was terminated from [REDACTED]) totaling \$39,750, plus \$44,500 for 20 October through 31 December 2010 (presumably stemming from lost salary and offshore bonuses), and continuing lost earnings through 01 April 2011.⁴

APPLICABLE LAW

¹ Claimant's initial OSLTF form claimed \$120,000 in lost earnings and \$4,500 lost natural resource damages. Claimant withdrew the natural resources portion of his claim via letter dated 11 February 2011.

² PHONECON between the NPFC and [REDACTED], [REDACTED] on 12 January 2011.

³ Letter from Claimant to NPFC in response to additional information request, dated 28 December 2010. In his letter, Claimant states that the Crossmar 21 "has open raw water keel coolers . . . [which] prohibited the vessel from transiting to work sites because of the oil spill."

⁴ Letter from Claimant to NPFC in response to additional information request, dated 28 December 2010.

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF:

In support of his claim, Claimant presented the following documentation:

- OSLTF claim form, signed by Claimant and received by NPFC on 30 November 2010;
- Termination letter from [REDACTED], dated 19 October 2010;
- Fishing license;
- Pay Statement from [REDACTED] for the period ending 30 September 2010;
- IRS Form 8879;
- W-2s from [REDACTED] for 2009 and 2010;

- Various 1099 earnings statements for 2009;
- GCCF denial letter, denying Claimant's Emergency Advance Payment, dated 16 November 2010;
- Letter from Claimant to NPFC in response to request for additional information, dated 28 December 2010;
- Letter from Vice President of [REDACTED] and Gas division, describing decline in volume of work following the Deepwater Horizon oil spill;
- Federal tax return for 2007, 2008 and 2009 (1040);
- Mississippi state income tax return for 2007, 2009;
- Two year comparison of 2008 and 2009 federal tax returns;
- Letter from [REDACTED] to Claimant, offering a position as an Offshore Installation Manager with annual compensation paid semi-monthly at the rate of \$5,416.67, plus an additional \$250/day offshore rate, plus a monthly \$100 cell phone allowance, dated 26 June 2008;
- Email from Claimant to NPFC expressing "disbelief and disgust" at request for additional information, and requesting reassessment of claim "with a fair and logical mindset," dated 16 February 2011.

Claimant seeks \$120,000.00 in lost profits and earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 25 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$60,000 in lost earnings with the GCCF. The GCCF assigned him GCCF Claimant ID [REDACTED] and Claim [REDACTED]. On 16 November 2010, his claim was denied by the GCCF.

NPFC Determination

In addition to the documentation presented by Claimant, the NPFC received information from both [REDACTED] and [REDACTED] regarding the nature of the Claimant's work. Phoenix provided detailed payroll records showing Claimant's monthly compensation for 2009 and 2010, up until the date of the Claimant's termination. Phoenix also provided weekly "Houston Reports," which summarize Phoenix's Gulf operations between 18 June 2010 and 12 November 2010.

Crossmar provided a detailed explanation of its business relationship with [REDACTED] and the capabilities of the Crossmar 21.

The totality of this evidence indicated that any lost earnings suffered by the Claimant during the final months of his employment with Phoenix and for the remainder of 2010 were not the result of the Deepwater Horizon oil-spill. There is no indication that oiled water prevented the [REDACTED] from transiting to designated worksites. Correspondence from [REDACTED] confirmed that while oiled water *could* cause the vessel's generators to overheat, "[a]t no time did Crossmar refuse to transit or work while under contract to Phoenix."⁵

The weekly reports provided by [REDACTED] bolster this conclusion, as oiled water is never mentioned as a cause of the vessel's work stoppage. Instead, maintenance issues at well sites, weather, and delays on the part of Tarpon are listed.⁶ Accordingly, Claimant's loss of offshore hours and eventual termination appear to be attributable to business decisions made by [REDACTED] and [REDACTED] not the Deepwater Horizon oil-spill.

⁵ Letter from President of [REDACTED] to NPFC, dated 22 February 2011.

⁶ These reports list the Crossmar 21 as "standing by" from 13 August 2010 until 29 October 2010, awaiting [REDACTED] to resolve P&A permit issues with the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE).

NPFC's investigation also revealed discrepancies in the Claimant's lost earnings calculation. Claimant initially stated he was paid a base salary of \$11,500 monthly, plus an additional \$7,000 monthly (or \$250 a day) in the form of an offshore bonus;⁷ however, Claimant's offer letter from Phoenix International, which Claimant provided to NPFC on 16 February 2011, states his base monthly salary is \$10,833.34 (\$5,416.67 semi-monthly).⁸ This latter monthly figure is borne out by financial data provided to the NPFC by [REDACTED] which shows Claimant was paid \$10,833 monthly throughout 2009 and 2010 until the date of his termination.⁹

There is also no indication that the Claimant is entitled to \$7,000 in monthly offshore bonuses as claimed. The aforementioned financial data shows that during 2009 Claimant only worked 116 offshore days out of 245 potential days from May through December, totaling \$29,000 in offshore bonuses for the period, or an average of \$3,625 per month—roughly half of the Claimant's alleged monthly offshore bonus.

Finally, it must be noted that OPA and the accompanying regulations at 33 C.F.R. § 136.235 prohibit a claimant from recovering prospective lost earnings. Only those economic damages suffered at the time a claim is presented are recoverable. A large portion of the Claimant's requested sum (at least \$108,000) stems from prospective lost earnings for January through April 2011, and are not OPA compensable damages.¹⁰

In accordance with the foregoing analysis, Claimant's alleged loss in the amount of \$120,000 is not due to the destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil therefore this claim is denied.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 2/27/11

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

⁷ Letter from Claimant to NPFC in response to additional information request, dated 28 December 2010.

⁸ Letter from [REDACTED] dated 26 June 2008.

⁹ Email from [REDACTED] to NPFC with attached 2009 and 2010 payroll reports, dated 16 February 2011.

¹⁰ Letter from Claimant to NPFC in response to additional information request, dated 28 December 2010 ("If I remain unemployed until April 1, 2011, I will lose another \$108,000"). In addition to the prospective nature of these lost earnings, it is unclear how Claimant arrived at this quantum, given that three paragraphs earlier, Claimant calculated his monthly loss to be \$18,500 monthly.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

5890/DWHZ
Claim # N10036-0161
28 February 2011

Re: Claim Number: N10036-0161

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 CFR Part 136, denies payment on the claim number N10036-0161 involving the Deepwater Horizon oil-spill. Please see the attached Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0161.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Signed [REDACTED]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-00000655

CLAIM SUMMARY/DETERMINATION FORM

Date	24 February 2011
Claim Number	N10036-0161
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$63,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$63,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that since April 2008, he has worked as a consultant for Gulf Coast Professional Consultants, LLC (GCPC) based in New Orleans, LA. Claimant further asserted that GCPC held government contracts to locate suitable housing and work for residents returning to the Gulf region following Hurricanes Katrina, Rita, Ike and Gustave. Claimant avers that as the work associated with these contracts concluded, he began developing an area of the business specifically geared towards providing consultancy services to restaurants, hotels and vacation home owners. Claimant described the business model as a niche consultancy with a focus on tourism and travel trends, feasibility studies for new marketing products, and referral services and partnerships among other things.

Claimant indicated that several proposals and contracts were sent out in early April 2010 to agreeable hotels partners following preliminary phone discussions.¹ The Claimant further indicated that “[a]s I was wrapping up other aspects of my consultancy business to concentrate on this venture, sign contracts and begin working with the anticipated partners the BP Oil Spill occurred on April 20, 2010.”²

Claimant alleged that as a result of the Deepwater Horizon oil-spill, “I have no clients to work with or market my niche services to. . . . [N]ot one contract has been returned.”³

¹ Letter of explanation from Claimant to the NPFC, dated 18 November 2010.

² Letter of explanation from Claimant to the NPFC, dated 18 November 2010.

³ Letter of explanation from Claimant to the NPFC, dated 18 November 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form dated 17 November 2010;
- Letter of explanation from Claimant to the NPFC, dated 18 November 2010;
- GCCF denial letter dated 12 November 2010;

- Letter from Olinger Group dated 16 November 2010;
- Sample consultancy agreement;
- Article “How Will the BP Oil Spill Affect the Economy in the Near Future?” dated 18 November 2010;
- Certificate of registration for [REDACTED];
- GCPC business proposal;
- 2008 tax return transcript for Claimant; and
- 2009 IRS Form 1040 for Claimant.

On 06 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$38,000.00 in lost profits and earnings with the GCCF. She was assigned GCCF Claimant ID # [REDACTED] and Claim # [REDACTED]. On 12 November 2010, her claim was denied by the GCCF.⁴

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Claimant indicated that he began developing a new niche consultancy and began soliciting clients for his consultancy services prior to the Deepwater Horizon oil-spill. The Claimant did not have any signed, contractually bound business clients prior to the Deepwater Horizon oil-spill, and the Claimant does not provide any evidence to indicate that such a relationship existed. Claimant additionally has not demonstrated that any of the prospective business clients that did not accept his solicitation did so as a result of the Deepwater Horizon oil-spill.

Any losses claimed from prospective business contracts/clients are merely speculative. The claim is denied because the evidence presented by the Claimant does not demonstrate that the Claimant’s alleged loss was a result of injury destruction or loss of natural resources or real or personal property nor has the Claimant demonstrated that the alleged loss was experienced vice prospective.

Claim Supervisor [REDACTED]

Date of Supervisor’s Review: *2/27/11*

Supervisor’s Action: *Denial approved*

Supervisor’s Comments:

⁴ Denial letter from the GCCF to Claimant, dated 12 November 2010

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ

Claim # N10036-0162

24 February 2011

Re: Claim Number: N10036-0162

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0162 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0162.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000659

CLAIM SUMMARY/DETERMINATION FORM

Date	24 February 2011
Claim Number	N10036-0162
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$38,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$38,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil-spill.

Claimant asserted that he works for [REDACTED] a company that "provide[s] flowlines and services to the Gulf of Mexico oilfield."¹ He alleged that "[a]s a result of the Deepwater Horizon oil-spill our workload and contracts greatly decreased . . . [and] [e]ventually my employment . . . ended."²

Claimant lost his job on 01 October 2010 and was rehired on 07 December 2010. He seeks lost earnings from 01 October to 07 December 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

¹ Letter from Claimant titled "RE: Explanation of how job was effected", undated.

² Letter from Claimant titled "RE: Explanation of how job was effected", undated.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form dated 18 November 2010;
- Letter from Claimant titled "RE: Explanation of how job was effected," undated;
- GCCF denial letter dated 01 November 2010;
- Technical Professionals Group Earnings Statements for Claimant for periods ending 26 September 2010, 12 September 2010, 08 August 2010, 25 July 2010, 27 June 2010, 20 June 2010;
- Letter from [redacted] Coordinator;
- Letter from [redacted] dated 06 October 2010;
- 2008 W-2 and Earnings Statement for Claimant;
- 2009 W-2 from [redacted] and [redacted] for Claimant; and
- Claimant 2009 1040.

He seeks lost earnings from his unemployment on 01 October to 07 December 2010 allegedly resulting from the Deepwater Horizon oil-spill.

On 01 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$62,352.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted] and

Claim [REDACTED]. On 01 November 2010, his claim was denied by the GCCF. This information was verified by the NPFC.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. The NPFC considered all documentation presented by the Claimant.

The Claimant alleged that his employment was terminated on 01 October 2010 as a result of the Deepwater Horizon oil-spill. Claimant remained unemployed until he was rehired at Technical Professionals Group on 07 December 2010. A letter from [REDACTED] President of [REDACTED] indicated that the Claimant's termination resulted from a lack of work.

On 21 February 2011, the NPFC contacted [REDACTED] to explore the alleged connection between Claimant's termination and the Deepwater Horizon oil-spill. [REDACTED] explained that Claimant was relieved as a result of a loss of work, which she attributed to seasonal changes or lapses in contracts. [REDACTED] further indicated that [REDACTED] group has not been impacted by the Deepwater Horizon oil-spill.³

The claim is denied because the alleged loss in the amount of \$38,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor [REDACTED]

Date of Supervisor's Review: *2/24/11*

Supervisor's Action: *Denial approved*

Supervisor's Comments:

³ PHONECON between the NPFC and [REDACTED] President, [REDACTED], on 21 February 2011
09/19/11 FOIA2001-3586-00000662

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

5890/DWHZ
Claim # N10036-0163
16 February 2011

Re: Claim Number: N10036-0163

Dear [REDACTED]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0163. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0163.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000663

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0163
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$18,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, [REDACTED] Claimant) presented an optional OSLTF (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$18,000 in lost profits and earning capacity resulting from the Deepwater Horizon Incident.

Claimant asserts that he worked for [REDACTED], a BP contractor hired to respond to the Deepwater Horizon oil spill. Claimant alleges that he was promised 2 to 3 years of employment, but after 4 to 8 weeks, he was laid off.¹

Claimant seeks lost earnings as a result of his layoff.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;

¹ PHONECON between the NPFC and the Claimant on 08 December 2010.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

Claimant's claim is poorly documented. To support his claim, Claimant presented his optional OSLTF claim form and a denial letter from the GCCF dated 04 November 2010. Claimant's documentation totals three pages. In the two page optional OSLTF Claimant submitted, he did not describe: the incident that allegedly caused his damages, the nature or extent of the damages he is claiming, or describe how the incident caused his damages.

On 19 October 2010, the Claimant filed a six month Emergency Advance Payment (EAP) claim for \$15,000 to the GCCF. He was assigned Claimant ID [REDACTED] and Claim [REDACTED]. On 04 November 2010, his claim was denied. The NPFC verified this information.²

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

² On 04 January 2011, the Claimant also filed a Final Payment claim with the GCCF. This claim is still under review.

The three pages of information presented by the Claimant fail to demonstrate an economic loss or any connection between any alleged economic loss and the Deepwater Horizon oil spill. In his OSLTF claim form, the Claimant did not provide a description of the nature and extent of the damages claimed.

On 04 January 2011, the NPFC dispatched a letter to Claimant requesting additional information regarding the nature and extent of Claimant's damages. This letter was sent to the address provided by the Claimant which was verified by the NPFC on 08 December 2010.³ This letter went unclaimed and was returned to the NPFC.

The claim is denied because the evidence presented does not establish that the alleged loss was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor:



Date of Review:

2/17/11

Supervisor's Actions:

Denial Allowed

Supervisor's Comments:

³ Address verified during PHONECON between the NPFC and the Claimant on 08 December 2010.

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [REDACTED]

5890/DWHZ
Claim # N10036-0164
22 February 2011

Re: Claim Number: N10036-0164

Dear [REDACTED]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0164 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0164.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000667

CLAIM SUMMARY / DETERMINATION FORM

Date	: 22 February 2011
Claim Number	: N10036-0164
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$13,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$13,000 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

The Claimant has not provided any information explaining the nature of his alleged loss.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;

- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant provided the following to the NPFC:

- OSLTF claim form (first page only);
- Copies of Claimant's LA driver license and Social Security card;
- Nine (9) assorted paystubs from [REDACTED] for various pay periods throughout 2009 and 2010; and
- W-2 forms from 2008 and 2009.

Claimant seeks \$13,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil spill.

On 19 October 2011, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$11,000.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [REDACTED] and Claim [REDACTED]. On 23 November 2010, this claim was denied by the GCCF. This information was verified by the NPFC.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation presented by the Claimant.

After reviewing the claim, the NPFC determined that additional information was needed in order to obtain the necessary information to be able to adjudicate the claim. Accordingly, a request for additional information dated 05 January 2011 was mailed to the Claimant at his address on record. On 01 February 2011, the Claimant confirmed that he had received U.S.P.S. delivery

attempt notifications for the mailing, but not the actual request letter. On 02 February 2011, the NPFC sent the request for additional information via email and confirmed Claimant's receipt. To date, the NPFC has not received a response to the request for additional information from the Claimant.

The NPFC therefore proceeded to evaluate the claim based on the information the Claimant had provided. The limited information does not support the Claimant's allegation that he lost \$13,000.00 in earnings as a result of the Deepwater Horizon incident.

The claim is denied because the alleged loss of \$13,000.00 is not due to the injury, destruction or loss of property, or natural resources, as a result of a discharge or substantial discharge of oil. Additionally, the Claimant has failed to meet his burden to demonstrate he has a lost profits and earning claim as a direct result of the Deepwater Horizon incident.

Claim Supervisor

Date of Supervisor's Review: *2/22/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

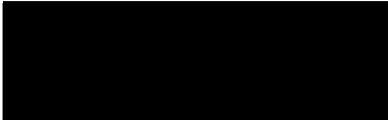
E-mail: [REDACTED]

Fax: 202-493-6937
5890

1/25/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



RE: Claim Number: N10036-0165

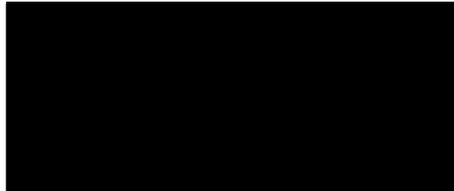
Dear Ms. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0165 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0165.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000671

CLAIM SUMMARY / DETERMINATION FORM

Date	January 24, 2011
Claim Number	N10036-0165
Claimant	██████████
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	██████████
Amount Requested	\$25,500.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 30, Ms. ██████████ (Claimant) presented a lost profits & earnings claim in the amount of \$25,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. Ms. ██████████ asserted lost wages as a direct result of the Deepwater Horizon incident.

Ms. ██████████ provided documentation showing that she owns ██████████ and ██████████ in Mobile, Alabama. She asserted that her businesses were impacted as a direct result of the Deepwater Horizon incident.

The GCCF assigned Claimant identification # ██████████. The Claimant indicated on her OSLTF claim form that she has been denied by the GCCF and provided a copy of the denial letter dated October 28, 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, undated;
- Letter dated October 1, 2010 written by claimant detailing how the Deepwater Horizon Incident has impacted wages earned;
- Letter dated October 28, 2010 to claimant from GCCF listing the reasons why the claim was denied;
- Letter dated October 30, 2010 written by claimant detailing how the Deepwater Horizon Incident has impacted wages earned;
- Individual Tax Return form 1040 filed for claimant for tax year ended 2009, including Schedule A and (2) Schedule C;
- Individual Tax Return form 1040 filed for claimant for tax year ended 2008, including Schedule A and (1) Schedule C;

- Profit and Loss Statement for the months May, June, July, August, and September 2010 for [REDACTED];
- Copy of (1) W-2 for 2009;
- Copy of (1) W-2 for 2008;
- Copy of paystub for pay period:
 - 13 Dec 2009 through 26 Dec 2009
 - 16 May 2010 through 29 May 2010
 - 30 May 2010 through 12 June 2010
 - 27 June 2010 through 10 July 2010
 - 25 July 2010 through 07 Aug 2010
 - 05 Sept 2010 through 18 Sept 2010
 - 03 Oct 2010 through 16 Oct 2010
 - 15 Nov 2010 through 28 Nov 2010
- Listing of clients lost due to the Deepwater Horizon Incident and the fees lost due to those cancellations for [REDACTED];
- Letter dated 23 Nov 2010 to claimant from GCCF listing the reasons why the supplemental request for a real or personal claim was denied;
- Letter dated 30 Oct 2010 from claimant to GCCF stating claimant is a sales associate at a department store and that sales have declined due to the incident;
- Copy of claimant's driver's license and business cards for two businesses claimed on Schedule C.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Ms. [REDACTED] has failed to provide a detailed statement and itemization as to how she arrived at her requested loss of profits and earnings. The Claimant provided redacted copies of bank statements for the month of April 2007, April 2008, April 2009, and April 2010. The information provided is not useful to support the Claimant's alleged lost profits and earnings.

Ms. [REDACTED] provided a copy of two letters from clients who terminated the Claimant's services. The two clients that wrote letters cancelling services were not listed in the Claimant's original submission. The first letter from Ms. [REDACTED] cancelled sitting services for [REDACTED] due to the oil-spill. The NPFC called Ms. [REDACTED] on January 25, 2011 to clarify what she meant by "Due to the Oil Spill" and she stated that she was affected by the oil-spill making her unable to continue to pay for services which resulted in the termination of the Claimant's sitting services. The NPFC tried to reach Ms. [REDACTED] who provided the second letter but has not been able to reach her for clarification of her letter.

In the Claimant's original submission to the NPFC, the Claimant provided a detailed list of clients who terminated her bookkeeping services, yet when addressing the Q&A section of the NPFC's request for additional information letter, the Claimant only lists one client as having been affected by the incident.

The claim is denied because the evidence provided by Claimant, as described above, does not establish either that she has incurred a loss or that the alleged loss (if one had occurred) was due

to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. The Claimant's alleged financial loss is a result of her clients' termination of her services and not a direct result of the Deepwater Horizon incident.

Claim Supervisor:



Date of Supervisor's Review: *1/25/11*

Supervisor's Action: *Denial approved*

U.S. Department
of Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
Arlington, VA 22203-1804
Staff Symbol: (CN)
Phone: [REDACTED]
E-mail: [REDACTED]

16480

January 10, 2011

CERTIFIED MAIL Number: [REDACTED]

[REDACTED]
Gretna, LA 70053

RE: Claim Number: NI0036-0166

Dear [REDACTED]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing for varying periods of time. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On August 23, 2010, the Gulf Coast Claims Facility (GCCF), a representative for the RP, began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

Facts of Your Claim

On September 17, 2010, you presented a claim for Emergency Advance Payment to the GCCF, which was denied. On November 29, 2010, you presented your claim to the NPFC for lost subsistence use of natural resources following the Deepwater Horizon incident. The claim form that you submitted states that you seek \$3,500 as damages for lost subsistence use for the period from winter 2010 through early 2011. You submitted no additional information with your claim form.

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available pay claims for uncompensated damages resulting from oil pollution incidents. 33 U.S.C. § 2712 (a)(4). Damages include the loss of subsistence use of natural resources. 33 U.S.C. § 2702(b)(2)(C).

General Claim Requirements

The regulations at 33 CFR Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the (RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). The NPFC finds that your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

On November 29, 2010, the NPFC received your claim for lost subsistence use of natural resources from the Deepwater Horizon spill. While you included a claim form stating that you seek \$3,500 as damages for lost subsistence use, there was no additional documentation to support the claim.

NPFC Determination

Your claim for lost subsistence use is denied because you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 *et seq.*) and OPA claims regulations (33 U.S.C. §136). You have not identified the

specific natural resource that was injured or lost, or described your subsistence use of that resource and how and to what extent such use was affected by the spill. Further, you have not provided information on how you mitigated your alleged loss or determined the reasonable replacement cost of the natural resource for which you seek compensation. It is also unclear the time period for which you are seeking compensation. If the time period is the winter 2010 through early 2011, this is a future time period for which you have not yet suffered a loss of subsistence use.

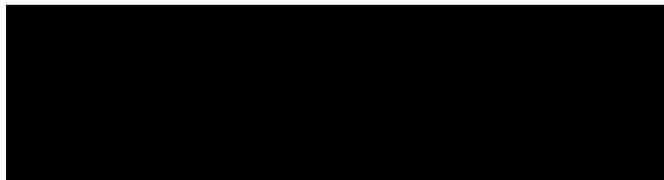
Request for Reconsideration

You may request the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request with claim number (N10036-0166) to:

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions, please feel free to contact me at the above address or by phone at [REDACTED].



U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail:
[REDACTED]

Fax: 202-493-6937
5890

12/10/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: 7010-0780-0001-8633-9180

[REDACTED]
Mobile, AL 36606

RE: Claim Number: N10036-0167

Dear Mr. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits you presented in your claim were a result of the Deepwater Horizon incident. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely, [REDACTED]

[REDACTED]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date 12/7/2010
Claim Number N10036-0167
Claimant [REDACTED]
Type of Claimant Private (US)
Type of Claim Loss of Profits and Earning Capacity
Claim Manager [REDACTED]
Amount Requested \$17,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated Claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 18 November 2010, Mr. [REDACTED] presented a claim to the National Pollution Fund Center (NPFC) claiming lost profits and earning capacity in the amount of \$17,000.00. The Claimant filed a 6 month emergency advance payment claim with the GCCF (claim # [REDACTED]) and was denied on 17 November 2010.¹

The Claimant asserts that he has incurred the loss as a result of the Deepwater Horizon incident. The Claimant is a shipyard worker who started working for [REDACTED] on 12 August 2010 in Mobile, AL. He still works for the company and jumps from job to job around the shipyard. The Claimant states, "due to the oil spill I have lost a lot of hours and wages."²

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any Claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. § Part 136. With certain exceptions a claim must first be presented to

¹ GCCF Denial Letter of 17NOV10

² Document from Claimant of 15NOV10

the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a Claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered.

Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

The Claimant asserts that he lost his job at [REDACTED] which is located in Mobile, Alabama, because the company lost work due to damages on the water resulting from the Deepwater Horizon incident. He was hired by [REDACTED] on 12 August 2010, and was hired to conduct repair work at the company's dry docks. The Claimant provided copies of direct deposit vouchers from [REDACTED] from various periods from August 27, 2010 through November 12, 2010. Information received from the Claimant's employer conflicts with the Claimant's assertion that he lost profits resulting from the incident. The human resources manager at [REDACTED] stated that none of the company's work was affected by the Deepwater Horizon oil spill and no employee's job at [REDACTED] was impacted. The work fluctuates up and down. The Claimant was hired to conduct certain repair work. When the work was complete he was laid off and then rehired, often the next day, for another repair job or he would be transferred to another job.

NPFC Determination

Claimant's claim is denied because he has not established that he suffered lost profits resulting from the Deepwater Horizon incident.

AMOUNT: \$0.00

DETERMINATION: Mr. [REDACTED] claim for \$17,000.00 to the OSLTF is denied.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 12/10/10

Supervisor Action: Denial Approved

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

5890/DWHZ

28 December 2010
Claim # N10036-0168

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]

Dear Ms. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0168 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0168.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely
[REDACTED]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	28 December 2010
Claim Number	N10036-0168
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$39,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, the NPFC received an Oil Spill Liability Trust Fund (OSLTF) claim form from Ms. [REDACTED] (Claimant). Claimant is presenting a loss of profits & earnings claim in the amount of \$39,000.00 to the National Pollution Funds Center (NPFC) for reimbursement of lost wages.

Claimant provided evidence that she has been employed with the [REDACTED] in Murrero, Louisiana as a bus driver since at least 2008. She claims that her position as a bus driver was impacted as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted an OSLTF claim form dated 12 November 2010, a copy of the Claimant's 2008 and 2009 W-2 Wage and Tax Statements, a copy of her U.S. Individual Income Tax Returns, Form 1040 for tax years 2008 and 2009, a four page, hand-written letter explaining the nature of the claim, a copy of the Claimant's social security card and Louisiana driver's license, copies of various medical and psychiatric history and related records, including certain invoices from 2009 and 2010, and copies of select payroll stub copies from [REDACTED] for 2009 and 2010 (2/28/09, 4/15/09, 1/31/10, 9/30/10 and 10/15/10).

The evidence provided shows that Claimant has been employed with the [REDACTED] in Morrero, Louisiana as a bus driver since at least 2008. Her average annual earnings for 2008 and 2009 were approximately \$39,000.00.

The GCCF assigned Claimant identification # [REDACTED]. The Claimant indicates on her OSLTF claim form that she has been denied by the GCCF although no denial letter has been provided in her claim submission.

NPFC Determination

The claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant's four page statement does not demonstrate, nor do the other records supplied demonstrate, that the Claimant's employment as a school bus driver was impacted by the Deepwater Horizon incident.

It is important to note that the Claimant has provided significant medical documentation that shows various alleged ailments, treatments, and related medications. Most of the records provided pre-date the Deepwater Horizon incident. Some of the documentation shows that the Claimant applied for, but was denied medical disability status by an unknown public entity or organization sometime in late 2009. The entity or organization that denied this disability claim is unknown as a portion of that document was erased or otherwise not produced.

Additionally, according to a letter provided by the Claimant, she went on voluntary "unpaid sick/medical leave" beginning in January or February 2010, prior to the Deepwater Horizon incident. The medical conditions alleged by the claimant, and the related sick leave allegedly taken in early 2010, are not related to the Deepwater Horizon Incident. Furthermore, the dates of the claimed leave, as well as the alleged medical conditions, pre-date the Deepwater Horizon incident by months or years.

Finally, according to the payroll records provided by the Claimant, she continued to be employed at [REDACTED] through at least October 2010 (the most recent records submitted). The regular salary amount per pay period for September and October 2010 was \$1,629.15. This compares to the regular salary amount prior to the Deepwater Horizon incident in January 2010 of \$1,471.14. As such, Claimant's regular salary does not appear to have decreased after the Deepwater Horizon incident.

The claim is denied because the evidence provided by Claimant, as described above, does not establish either that she has incurred a loss or that the alleged loss (if one had occurred) was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Further, to the extent that the Claimant alleges personal injuries or medical conditions as a result of the Deepwater Horizon incident, such injuries or conditions are not compensable under OPA.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 12/29/10

Supervisor's Action: Denial approved

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0169
22 February 2011

Re: Claim Number: N10036-0169

Dear [REDACTED]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0169 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0169.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-0000687

CLAIM SUMMARY / DETERMINATION FORM

Date	: 10 February 2011
Claim Number	: N10036-0169
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$32,500.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, [REDACTED] (Claimant) presented an OSLTF Claim Form (OSLTF) to the National Pollution Funds Center (NPFC) seeking \$32,500 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant works as a room service food server for a hotel in Biloxi, MS.¹

The Claimant is paid a hourly rate, deriving the bulk of her income from customer tips. Claimant asserted that since 01 May 2010, her employer's business volume has declined due to the public perception of oil, in turn precipitating a decrease in the volume of room service sales. The Claimant estimated that she has lost approximately \$1,000 per month since May 2010, encompassing decreased cash tips, sales, and lack of a wage increase. Claimant's requested amount represents 36 months of lost wages, less a \$3,500 payment previously received from the GCCF.²

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

¹ Claimant's Optional OSLTF submitted on 30 November 2010 and Letter from Claimant to NPFC dated 30 November 2010.

² Letter from Claimant to NPFC dated 30 November 2010.

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the following to the NPFC:

- OSLTF Claim Form dated 30 November 2010;
- Letter from Claimant to NPFC explaining the nature of her employment and subsequent economic loss, dated 30 November 2010;
- Denial Letter from GCCF dated 18 November 2010;
- Notice of Determination for Emergency Advance Payment from GCCF, dated 20 September 2010;
- Claimant's work schedule for 08 November 2010 to 21 November 2010;
- Federal tax returns for 2008 and 2009
- Selected ██████████'s earning statements from 2009 and 2010;

NPFC Analysis

The Claimant initially presented her claim to GCCF on 29 August 2010 and was assigned Claimant ID # [REDACTED]. She received an emergency advance payment under Claim [REDACTED] in the amount of \$3,500.00.

Starting in October 2010, the Claimant subsequently submitted to GCCF five (5) supplemental lost earnings claims reflecting her losses from June through October 2010, totaling \$7,600, all of which were denied. Claimant presented a final lost earnings claim in the amount of \$40,000 to GCCF on 29 November 2010. This claim is under GCCF Review. NPFC verified this information.³

On 29 December 2010, NPFC sent a letter to the Claimant requesting that she provide additional information regarding the nature of her employment and tip income. As of the date of this determination, the Claimant has not furnished the NPFC with the requested information.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

Claimant stated that the requested sum of \$32,500 reflects 36 months of lost profit/earnings. At the time she presented her claim, only nine months had elapsed from the point at which the Claimant's damages began to accrue, hence Claimant's requested sum reflects 27 months of prospective losses. Prospective losses are not compensable by the OSLTF under OPA and the accompanying regulations at 33 C.F.R. § 136.235.

As to the remainder of the claimed loss, the NPFC cannot determine that the Claimant's annual wages were reduced because of the Deepwater Horizon incident. Similarly, the NPFC cannot establish that the Claimant's cash tips, which she asserted comprise a large portion of her monthly compensation, have decreased. Accordingly, the Claimant has failed to meet her burden to demonstrate that she has a loss of profits and earnings that was due to the injury, destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial discharge of oil or that her loss was the direct result of the Deepwater Horizon incident.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: *2/21/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

³ GCCF Information on the Claimant available on their website.

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United States Coast Guard - MS 7100
4200 Wilson Blvd., Suite 1000
Arlington, Virginia 20598-7100

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AS ADDRESSED,
UNABLE TO FORWARD



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(Transfer from service label)
PS Form 3811, February 2004

Domestic Return Receipt

3. Service Type
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CROSS MAIL

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- Print your name and address on the reverse so that we can return the card to you.
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U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [Redacted]

5890/DWHZ
Claim# N10036-0170
09 March 2011



RE: Claim Number: N10036-0170

Dear [Redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on your claim number N10036-0491 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0170.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U. S. Coast Guard
Claims Manager

RECEIVED
NPFC CLAIMS
2011 MAR 22 PM 1:53

2011 MAR 22 PM 1:53
RECEIVED
NPFC CLAIMS

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	04 March 2011
Claim Number	N10036-0170
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	▪ Loss of Earning Capacity and Subsistence Use
Claim Manager	[REDACTED]
Amount Requested	\$4,400.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking a combined loss of \$4,400.00 for loss of profits and earnings, as well as, loss of subsistence use of natural resources allegedly resulting from the Deepwater Horizon oil-spill.

Claimant is a resident of New Orleans, Louisiana and indicated that he holds a Louisiana resident fishing license. With respect to his alleged lost profits and earnings, Claimant asserted that he fishes and “sometimes I sell the catch and I cannot make any money because of the ban on fishing.”¹ Claimant provided three handwritten letters from former customers who indicated they had previously purchased fish from the Claimant.

With respect to his alleged subsistence loss, Claimant asserted that “I usually go fishing in order to feed my family . . . [but] because of the moratorium on fishing due to the oil spill, I cannot go fishing anymore.”² Claimant indicated that the price of seafood has tripled and it was costing him more money to feed his family.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

Loss of Profits or Impairment of Earning Capacity

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a

¹ Claimant handwritten letter “To Whom It May Concern,” dated 05 January 2011.

claim for loss of profits or impairment of earning capacity due to injury to or destruction or loss of natural resources or real or personal property.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

Loss of Subsistence Use

Another damage is for loss of subsistence use of natural resources recoverable by any claimant who uses the resources that have been injured, destroyed or lost. The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims.

Specifically, each claim for loss of subsistence use of natural resources must:

- (a) Be for lost subsistence use and submitted by an eligible claimant;
- (b) Identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- (c) Describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- (d) Describe efforts to mitigate the subsistence use loss; and
- (e) Be based on the reasonable cost to replace the lost subsistence use of natural resources.

NPFC interprets subsistence use to mean direct use to maintain the minimum necessities of life such as food clothing or medicines.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- Claimant typed letter stating the details of his claim as well as the sum certain amount, dated 8 October 2010; there is also a handwritten addendum by Claimant requesting an updated change of address dated 13 October 2010;
- Handwritten letter from [REDACTED] indicating he bought fish from Claimant, dated 11 November 2010;
- Handwritten letter from [REDACTED] indicating she bought fish from Claimant, dated 11 November 2010;
- Handwritten letter from [REDACTED] indicating she bought fish from Claimant, dated 11 November 2010;
- Copy of receipt from [REDACTED] undated;
- Copies of two receipts from [REDACTED], undated;
- Copy of receipt from [REDACTED] dated 3 February 2009;
- Handwritten letter from [REDACTED] indicating that he and Claimant fished together, but have been unable to fish since the Deepwater Horizon oil spill. The letter was notarized and signed by both [REDACTED] and Claimant, undated; and
- Claimant handwritten letter "To Whom It May Concern," dated 05 January 2011.

Claimant seeks a combined \$4,400 in lost profits and earnings and loss of subsistence use of natural resources allegedly resulting from the Deepwater Horizon oil-spill.

On 21 September 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$2,400.00 in loss of subsistence use of natural resources with the GCCF. He was assigned GCCF Claimant ID # [REDACTED] and Claim [REDACTED]. This claim was denied by the GCCF.³

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation submitted by the Claimant.

Loss of Profits or Impairment of Earning Capacity

This claim is denied because the Claimant does not have a Louisiana commercial fishing license. Claimant indicated that he only had a residential fishing license, although he was unable to provide it because it was lost.⁴ Pursuant to LA. REV. STAT. (LRS) § 56.302 (C) (1950), Louisiana residents who hold residential fishing licenses are authorized to take fish from Louisiana public waters, but they may not sell without a commercial fishing license. The NPFC confirmed with the Louisiana Department of Fish and Wildlife the statutory interpretation that a resident may not sell fish that he or she catches without a commercial fishing license.⁵

³ Claimant has Interim Payment claims for loss of earning and loss of subsistence under review with the GCCF.

⁴ PHONECON between Claimant and NPFC Representative on 13 December 2010.

⁵ PHONECON between License Analyst from LA Department of Fish and Wildlife and NPFC Representative on 15 December 2010.

Claimant's inability to profit from selling fish while in violation of Louisiana licensure laws is not a compensable loss.⁶

Loss of Subsistence Use

The claim is denied because the evidence presented by the Claimant does not establish the claimant is a subsistence user. The Claimant submitted no statements or affidavits that address the frequency and amount of subsistence catch and consumption that he and/or his family relied upon to meet the minimum necessities of life. He has not provided a valid fishing license that would demonstrate that he is legally entitled to catch fish or game in the state of Louisiana. Additionally, Claimant has provided no documentation in support of the dollar amount of subsistence use claimed. The NPFC cannot determine the period of claimed loss or any actual costs incurred to replace the fish or shellfish that he would have caught and eaten if the spill had not occurred.

Claim Supervisor: 

Date of Supervisor's Review: *3/9/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

⁶ Given this grounds for denial, the NPFC did not address the sufficiency of Claimant's evidence for his claim for loss of profits and earnings.

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]
Fax: 202-493-6937

5890
8 February 2011

VIA MAIL and EMAIL: [REDACTED]

[REDACTED]
Angie, LA 70426

RE: Claim Number: N10036-0171

Dear Mr. [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0171 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0171.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000697

CLAIM SUMMARY / DETERMINATION FORM

Date	: 08 February 2011
Claim Number	: N10036-0171
Claimant	: Mr. [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$65,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010¹. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

On 12 July 2010, the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants continue.

CLAIM AND CLAIMANT:

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

On 30 November 2010, Mr. [REDACTED] (Claimant), presented a claim to the NPFC via the Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking \$65,000.00 for lost profits and earning capacity resulting from the Deepwater Horizon oil-spill.

Claimant asserted that he has not worked "on a offshore job since May 14, 2010 due to the oil-spill" and subsequently his "pay has been cut back from a daily wage to an hourly wage. Claimant further asserted that the ban on offshore drilling has caused "mental stress, emotional stress, marriage problems and financial problems" and therefore he is claiming a sum certain to compensate for his perceived losses.

APPLICABLE LAW:

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered.

Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support the claim, the Claimant submitted the following documents.

1. NPFC Optional OSLTF Claim form, dated 22 Nov 2010
2. Summary of wages and tax status for tax year 2008
3. Summary of wages and tax status for tax year 2009
4. Pay stubs for pay periods from 03 January 2010 through 22 May 2010

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity as a direct result of the Deepwater Horizon Incident. The NPFC considered all the documentation submitted by the Claimant.

Though unable to discern Claimant's employer from the original information presented, the NPFC made an official request for additional information on 13 December 2010. Claimant was given thirty (30) days in which to provide the requested information, request an extension or contact NPFC for a status update and has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA.

Despite these failed requests, the NPFC put forth additional efforts and made contact with [REDACTED], an accountant whose name appeared on the payroll documentation supplied by Claimant. Mr. [REDACTED] was able to determine that the Claimant's employer was [REDACTED] with contacts in Texas, Louisiana and Mississippi. Mr. [REDACTED] owner of [REDACTED] advised that the moratorium issued by the President of the United States impacted the offshore work available to his company. His company has three (3) fulltime employees but at this moment there is no work and therefore, he currently is not working.

After evaluation of the claim documentation presented as well as the correspondence with the employer, it would appear that Claimant's loss was subject to the intervening moratorium declaration. Based on consideration of all documents and information supplied as well as correspondence with the employer, Claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. Claimant's claim for lost profits or earnings capacity is therefore denied.

Claim Supervisor: [REDACTED]

Date of Supervisor's review: *2/8/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0172
07 March 2011

[REDACTED]

Re: Claim Number: N10036-0172

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0172 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0172.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

U.S. Coast Guard
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000701

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/4/2011
Claim Number	: N10036-0172
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$30,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 23 October 2010, [REDACTED] (Claimant) presented a lost profits and earnings claim to the RP in the amount of \$30,000.00, with assigned Claimant Identification Number: 323697. That claim was denied. Claimant subsequently presented a claim to the National Pollution Funds Center (NPFC) for \$30,000.00 on 30 November 2010.

Claimant has been employed by [REDACTED] since 2008. The Claimant's most recent position is as a cocktail waitress. The Claimant asserted that the company was impacted by the Deepwater Horizon oil-spill and consequently she experienced a reduction in work hours, earnings and eventually was terminated.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant submitted:

1. NPFC Optional OSLTF Claim form, submitted 22 Nov 2010, received 30 Nov 2010;
2. Letter from ██████████ to NPFC. Received 08 Dec 2010;
3. Office of Consumer Protection, ██████████ Attorney General, State of MS: Complaint Form;
4. ██████████: Notification of Continuation of Insurance Coverage, date 16 Aug 2010;
5. Mississippi Dept. of Employment Security: Notice of Monetary Benefit Determination for Unemployment, dated 10 Aug 2010;
6. Employee Pay History Spreadsheet ██████████; period 11 Jan 2010-23 Aug 2010;
7. GCCF Denial Letter dated 05 Nov 2010, Claimant ID Number: 3267812;
8. Email; Status of Appeal Claim ██████████; ██████████ GCCF; 12 Nov 2010 (2);
9. Email; Waiting for Emergency Advance Payment ██████████ ██████████ GCCF; 18 Nov 2010 (4);
10. Email; Claim 3267812 interim payment?? Final payment? LEGITIMATE CLAIM... CAUSED BY BP AND OIL SPILL; 22 Nov 2010 (3);
11. Email; Claim ██████████—spoke to girl from 800#; 30 Nov 2010 (2);
12. Email; Claim ██████████; 20 Nov 2010 (1);
13. Email; Claim ██████████; 23 Nov 2010 (1);
14. Email; Claim ██████████—final payment/hardship letter as advised by local GCCF office; 24 Nov 2010 (2);
15. Email; Claim ██████████; 26 Nov 2010 (1);

16. Email; will [REDACTED] be handling my claim [REDACTED]; 26 Nov 2010 (1);

17. Email; [REDACTED] final claim [REDACTED] 29 Nov 2010 (1);

18. Email; [REDACTED]—claim [REDACTED] 29 Nov 2010 (3).

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation presented by the Claimant.

Claimant failed to demonstrate a loss or reduction in hours as a direct result of the Deepwater Horizon oil-spill. Additionally, the NPFC held a conversation with the HR representative for [REDACTED] which revealed that the Claimant's termination "was absolutely not a result of the oil-spill" but rather due to other reasons.¹ The claim is denied because the alleged loss in the amount of \$30,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil and the Claimant failed to prove her claimed loss amount.

Claim Supervisor [REDACTED]

Date of Review: 3/4/11

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

¹ Conversation between [REDACTED] and NPFC Staff on Wednesday, 02 March 2011
09/13/11 FOIA2001-3380-00000704

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0173
10 February 2011

RE: Claim Number: N10036-0173

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0173 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0173.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	10 February 2011
Claim Number	N10036-0173
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$15,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 24 November 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking \$15,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant works for Sonitrol Security which primarily provides security services for restaurants in New Orleans.¹ Claimant asserts that because the Deepwater Horizon incident impacted the business of Sonitrol Security's customers (restaurants in New Orleans), these customers have struggled to pay Sonitrol Security for services rendered and some of these customers have cancelled Sonitrol Security's services. Claimant alleges that as a result of this impact, Claimant's hours were reduced and she has had to pay an increased percentage for her benefits.²

Claimant seeks lost earnings from the alleged impact of the Deepwater Horizon incident on her employment.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a

¹ Letter of hardship from Claimant dated 24 November 2010.

² Optional OSLTF Claim Form.

claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, Claimant submitted the following:

- NPFC OSLTF Claim Form dated 24 November 2010;
- Letter of hardship from Claimant dated 24 November 2010;
- Letter from [REDACTED]
- 2009 1040 for Claimant;
- 2009 W-2 for Claimant; and
- Earnings statement from Sonitrol Security for Claimant for pay periods ending 31 January 2010, 15 February 2010, 15 October 2010, 31 October 2010.

Claimant seeks \$15,000.00 in lost earnings from the alleged impact of the Deepwater Horizon incident on her employment.

On 09 October 2010, Claimant filed an Emergency Advance Payment (EAP) claim for \$15,000.00 in lost earnings to the GCCF. GCCF assigned Claimant ID [REDACTED] and Claim #

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0174
10 January 2011

BY LETTER AND EMAIL
[REDACTED]

Re: Claim Number: N10036-0174

Dear [REDACTED]

As you indicated by your email today to [REDACTED] at the National Pollution Funds Center and as confirmed by phone at 1:15 p.m. EST on 10 January 2010, you are rescinding your claim due to compensation received from the Gulf Coast Claims Facility. Your claim file has been withdrawn.

If you decide to submit a claim with us in the future regarding your alleged loss, all information will have to be resubmitted.

If you have any questions about the request or would like to discuss the matter, you may write me at the above address, contact me by phone at [REDACTED] or by email at [REDACTED]

Sincerely,

[REDACTED]

Claims Adjuster
National Pollution Funds Center

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937
5890

08 February 2011

VIA MAIL AND EMAIL: [REDACTED]

[REDACTED]
Navarre, FL 34638

RE: Claim Number: N10036-0175

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0175 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0175.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 02 February 2011
Claim Number	: N10036-0175
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$48,500.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, Ms. [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$48,500.00 to the National Pollution Funds Center (NPFC) for reimbursement on behalf of [REDACTED]. Claimant asserted that as a result of the Deepwater Horizon oil-spill the "tourist industry, restaurants, new business, other sign shops no longer needed printing services – banners, signs, menus, t-shirts, any vinyl printed product, etc." and therefore the business has sustained a loss of profits and earnings capacity.¹

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

¹ See, Optional OSLTF Claim Form dated 17 November 2010.

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the NPFC Optional OSLTF Claim Form dated 17 November 2010, a copy of various P&L statements, and 2008 & 2009 IRS tax documentation.

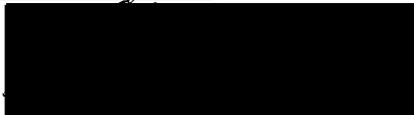
NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant failed to report that a claim submitted to the RP, on 14 June 2010, was paid in the amount of \$10,520.00. The Claimant has also submitted a Final-Full Review claim to the GCCF on 04 January 2011 for the sum certain amount of \$46,401.24 which is inconsistent with the sum certain presented to the NPFC.

This claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings occurring as a direct result of the Deepwater Horizon incident. The NPFC made an official request for additional information on 03 January 2011. The Claimant had 30 days in which to provide the

requested information, request an extension or contact NPFC for a status update and has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA.

Claim Supervisor: 

Date of Supervisor's review: *2/4/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]
Fax: 202-493-6937
5890
12/30/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
Metairie, LA 70006

RE: Claim Number: N10036-0176

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0176 involving the Deepwater Horizon oil spill. Please see the attached Claim Summary / Determination for the rationale of this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0176.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/30/2010
Claim Number	: N10036-0176
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$20,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon oil-spill). This area is leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010, Claimant presented a claim to the Oil Spill Liability Trust Fund (OSLTF or the Fund) claim Form to the NPFC claiming lost profits and earnings in the amount of \$20,000.00.

According to correspondence from the claimant, the basis for the claim was the termination of employment due to the moratorium on drilling. Based on our review of the documents provided, we noted that the claimant was employed at [REDACTED] from April 12, 2010 to May 25, 2010. It is important to note that the date of last employment precedes the moratorium announcement date of May 28, 2010. The separation notice from the employer does not mention the cause of termination, nor does it mention the Deepwater Horizon incident or the ensuing moratorium.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 CFR 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

A. Documentation Provided to the NPFC

Mr. Claimant submitted the following list of documentation:

1. Optional OSTLF Claim form dated 22 November 2010.
2. Correspondence from the claimant to the GCCF dated 04 November 2010.
3. Separation notice from employment at [REDACTED] dated 01 November 2010.
4. Earnings statements for pay periods ended 4/18/10 to 5/23/10.
5. U.S. Individual Income Tax Returns, Form 1040A, for tax years 2008 and 2009.

B. NPFC Analysis of the Claim

On 14 December, 2010 the Claim Manager contacted the claimant's former employer and spoke with Ms. [REDACTED] in the Human Resources Department. Ms. [REDACTED] confirmed that the claimant was a part-time employee and the only reason she was "let-go was because of her expiring contract. The contract was to expire regardless of the oil spill."¹

¹ PHONCON between Claim Manager and Ms. [REDACTED] of 14DEC10
09/13/11

Based on the above, it is clear that the claimant's employment was not terminated due to the Deepwater Horizon incident on 20 April 2010 or the moratorium on drilling issued on 28 May 2010.

C. Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. This claim is denied because the alleged loss in the amount of \$20,000 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: 

Date of Supervisor's review: *12/30/10*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

VIA MAIL AND EMAIL: [REDACTED]

[REDACTED]
New Orleans, LA 70119

5890/DWHZ
Claim # N10036-0177
05 January 2011

Re: Claim Number: N10036-0177

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0177 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0177.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	05 January 2011
Claim Number	N10036-0177
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$5,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010, [REDACTED] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking \$5,000 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant is an hourly employee who worked for [REDACTED]. Claimant asserts that she lost wages as a result of people traveling less due to the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission:

To support her claim, Claimant presented an OSLTF Claim form, dated 22 November 2010; (16) sixteen non-consecutive paystubs with [REDACTED] from 14 February 2010 to 5 November 2010; and a W-2 form from [REDACTED] for 2009.

The claim form indicated that the claim had been presented to the Responsible Party on 22 October 2010. No information on the GCCF claim number, submission date or letter of denial has been provided.

Claimant asserts that travelling slowed down as a result of the incident. No supporting documentation demonstrating causation has been provided.

NPFC Determination

On 20 November 2010, the NPFC provided the Claimant with a claims information packet containing a copy of the Claimant's Guide that presents the NPFC's documentation guidelines for proving loss of profits and earnings claims, as well as the Optional OSLTF Claim Form.

On 21 December 2010, the GCCF confirmed for the NPFC that [REDACTED]'s claim number for emergency payment was [REDACTED], that it had been presented on 22 October 2010 and the \$6,000.00 claim had been denied by GCCF. A final claim was under review on that date.

Claimant's gross pay to date for 2010, as indicated on the last pay stub presented, is \$12,112.14, while 2009 W-2 form indicates a full year pay of \$3,252.06.

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the alleged loss in the amount of \$5,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil nor has the Claimant provided sufficient documentation to demonstrate causation.

Claim Supervisor:

Date of Review: *1/5/11*

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0178
10 February 2011

RE: Claim Number: N10036-0178

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0178 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0178.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	10 February 2011
Claim Number	N10036-0178
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$8,000 a month

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010 [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking \$8,000 a month (\$96,000.00 a year) in lost profits and earning capacity resulting from the Deepwater Horizon incident.¹

The claimant is a commercial fisherman from Pass Christian, Mississippi. He holds Mississippi State licenses for oyster dredging, fishing boat, and crabs for shrimpers. Claimant asserts that he suffered "loss of income due to oil killing wildlife. . . . Fisheries where [sic] shut down. Oyster reefs all died and shrimping was not permitted."²

Claimant seeks loss of income as a commercial fisherman allegedly resulting from the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

¹ OSLTF claim form dated 20 November 2010.

² OSLTF claim form dated 20 November 2010.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following:

- NPFC OSLTF Claim form dated 20 November 2010;
- Handwritten note from claimant providing claimant's sister as the point-of-contact;
- Copies of four separate Mississippi fishing licenses for 2010 and 2011;
- Copies of claimant's ID and Social Security Card; and
- Copies of Claimant's accounts payable pages for [REDACTED] from November 2008 through April 2010.

Claimant seeks loss of income as a commercial fisherman in the amount of \$8,000 a month allegedly resulting from the Deepwater Horizon incident.

On 24 August 2010, Claimant filed a \$90,000.00 Six-Month Emergency Advance claim (EAP) for lost profits to GCCF. GCCF assigned him Claimant ID [REDACTED] and Claim [REDACTED] to his EAP claim. GCCF approved this claim in its entirety and paid Claimant \$90,000.³

³ GCCF Report to the NPFC dated 26 January 2011.

On 02 October 2010, Claimant filed a Supplemental EAP for \$90,000.00 in lost profits. GCCF assigned Claim [REDACTED] to this claim and thereafter denied it.

NPFC Determination

The Claim is denied. Under 33 C.F.R § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish a loss of profits or impairment of earning capacity. Claimant has not established a loss in profits and impairment of earning capacity beyond that for which he has already been compensated by the GCCF.

On 29 November 2010, Claimant filed his claim for lost profits of \$8,000 a month with the NPFC. On his OSLTF claim form, Claimant indicated that he had originally filed this claim with the GCCF in August 2010. Assuming a loss rate of \$8,000 a month as described by the Claimant, from the date of the Deepwater Horizon incident to the date of Claimant's filing with the NPFC—7 months—claimant's total loss amounts to \$56,000.00. However, Claimant had been compensated \$90,000.00 by the GCCF. This payout constitutes full compensation for claimant's alleged losses before the NPFC.

This claim is denied because the Claimant has received full compensation from the Responsible Party.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 10/10/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim# N10036-0179
31 January 2011

[REDACTED]
Jackson, MS 39212

RE: Claim Number: N10036-0179

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0179 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0075.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Lieutenant Commander
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000726

CLAIM SUMMARY / DETERMINATION FORM

Date	31 January 2011
Claim Number	N10036-0179
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$51,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 November 2010 [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$51,000.00 in lost profits and earning capacity to the National Pollution Fund Center (NPFC) alleging damages resulting from the Deepwater Horizon incident.¹

Claimant stated on her Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form that she could not buy seafood for her restaurant located in [REDACTED] Louisiana.²

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.

¹ OSLTF Claim Form dated 20 October 2011.

² OSLTF Claim Form dated 20 October 2011.

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the NPFC OSLTF Claim Form dated 22 November 2010³ and copy of Florida State Driver's License.⁴ Claimant did not provide any documentation to support a business entity. Claimant failed to respond to an additional request for information via certified letter [REDACTED] signed for 17 December 2010.

Claimant is claiming lost profits and earnings of \$51,000.00 alleging that she was unable to order seafood for her restaurant and for lost wages, both the result of the Deepwater Horizon incident.⁵

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID [REDACTED]. On 15 November 2010 the GCCF denied her claim.⁶ This information was verified by the NPFC.

³ OSLTF Claim Form dated 20 October 2011.

⁴ FAX from Claimant to the NPFC dated 23 November 2010

⁵ OSLTF Claim Form dated 20 October 2011

⁶ GCCF Claim Status Form for Claimant [REDACTED]

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that her loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation submitted by the Claimant.

The claim is denied because the evidence presented by the Claimant does not prove that her alleged loss is due to the Deepwater Horizon incident. Claimant did not present any documentation to explain her claim or to support the existence of any actual business activity. Claimant has not responded to the certified request for additional information.⁷ Based on the limited information provided by Claimant, there is insufficient data to support a loss to a business or individual wages, as claimed. Claimant has not established that her alleged loss of income resulted from the Deepwater Horizon incident and her claim is denied.

Claim Supervisor:



Date of Supervisor's Review: 2/1/11

Supervisor's Actions: DENIAL OF CLAIM

Supervisor's Comments:

⁷ Certified mail receipt [redacted]
09/13/11

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

[REDACTED]
Fax: 202-493-6937
5890 DWHZ
Claim # N10036-0180
27 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
Defuniak Springs, FL 32435

RE: Claim Number: N10036-0180

Dear [REDACTED],

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0180 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the Claimant, be deemed final agency action. All correspondence should include claim number N10036-0180.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000730

CLAIM SUMMARY / DETERMINATION FORM

Date : 27 January 2011
Claim Number : N10036-0180
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Subsistence Use & Loss of Profits
Claim Manager : [REDACTED]
Amount Requested : \$9,981.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated Claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 07 December 2010, [REDACTED] (claimant) presented an Optional Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking \$1,643 in loss of subsistence use of natural resources resulting from the closure of fishing and seafood harvesting grounds in response to the Deepwater Horizon incident.¹

On 10 December 2010, claimant submitted additional information alleging lost earnings of \$8,338.88 resulting from the Deepwater Horizon incident's impact on tourism in Florida panhandle and claimant's commission-based employment as a car mechanic.² Claimant's lost earnings were calculated by taking the difference between his 2009 and 2010 earnings, then adding an additional 4% due to a salary increase.

Claimant is a Florida resident and has a recreational Florida fishing license.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Covered removal costs and damages under OPA include, but are not limited to damages for loss of subsistence use of natural resources and damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources. 33 U.S.C. §§ 2702(b)(2)(C) and (b)(2)(E). Damages for loss of subsistence use and loss of profits and impairment of earning capacity are recoverable by any claimant establishing that their damages resulted from the incident.

¹ Optional OSLTF claim form dated 2 December 2010.

² Attachment A to Optional OSLTF Claim Form from Claimant.

09/13/11

ENCLOSURE

FOIA2001-3380-0000731

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6), provides that the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Subsistence Use Loss Claim Requirements

Pursuant to the claims regulations at 33 C.F.R. §§136.219-223, each claim for loss of subsistence use of natural resources must—

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Lost Profits and Earning Capacity Claim Requirements

Pursuant to 33 C.F.R. § 136.233, each claim for lost profits or earning capacity must establish the following:

- 1) That real or personal property or natural resources have been injured, destroyed, or lost.
- 2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- 3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- 4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- 1) All income resulting from the incident;
- 2) All income from alternative employment or business undertaken;

- 3) Potential income from alternative employment or business not undertake, but reasonably available;
- 4) Any saved overhead or normal expenses not incurred as a result of the incident; and
- 5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation to the NPFC:

- Optional OSLTF claim form dated 2 December 2010;
- Attachment A to Optional Form OSLTF, providing description of lost earnings and supporting calculations;
- State of Florida Recreational Fishing License;
- State of Florida Boat and Boat Trailer Registration;
- NOAA Southeast Fishery Bulletin dated 12 July 2010;
- Food Purchase Receipts from May through November 2010;
- GCCF denial letter dated 29 November 2010 for Claimant's request for emergency advance payment on lost subsistence use;
- W-2 Forms from 2006 to 2009;
- Intermittent pay stubs from 2006 to 2010;
- GCCF denial letter dated 6 December 2010 for Claimant's request for emergency advance payment
- Letter from [REDACTED] Comptroller at [REDACTED] Honda, dated 6 January 2011 providing additional information regarding the nature of Claimant's occupation and loss of earnings.

Claimant seeks \$1,643.00 in loss of subsistence use of natural resources and an additional \$8,338.88 in lost profits and earning capacity.

On 30 October 2010, claimant filed two claims with the GCCF: (1) a claim for an Emergency Advance Payment (EAP) in the amount of \$7,682.00 for lost profits and earnings; and (2) a claim for an Emergency Advance Payment (EAP) in the amount of \$2,329.00 for loss of subsistence use of natural resources. GCCF assigned him Claimant ID [REDACTED] and claim [REDACTED] for his lost profits EAP and claim [REDACTED] for his loss of subsistence use EAP. GCCF thereafter denied these claims.

On 07 December 2010, claimant filed a claim for \$1,643 in loss of subsistence use of natural resources with the NPFC. On 10 December 2010, claimant submitted additional information alleging a claim for \$8,338.88 in lost profits and earnings.

NPFC Determination

Both Claimant's loss of subsistence use and his lost profits and earnings claim are denied for the reasons set forth below.

Subsistence Use Loss and Natural Resources Damages

The Claimant's subsistence claim is denied because he did not provide sufficient information to support a regular pattern of catch and consumption that he or his family relied upon to meet the minimum necessities of life. Moreover, the period of his claimed loss, May 2010 through

November 2010, exceeds the closure period in his area, suggesting that at least a portion of his claimed loss resulted from his choice not to fish rather than the Deepwater Horizon incident. Further, Claimant has not shown that he attempted to mitigate subsistence use losses, to the extent that they occurred, by fishing in locations that were not closed to fishing. Lastly, the claimed increased cost to buy shrimp that was regularly purchased prior to the spill is not a subsistence use loss under OPA.

Lost Profits and Impairment of Earning Capacity

The lost profits component of the above referenced claim is also denied. The evidence presented by the Claimant does not prove that his decreased earnings for 2010 were the result of the Deepwater Horizon incident as opposed to other extraneous national or regional economic factors.

Claim Supervisors:



Date of Supervisor's review: 1/27/11

Supervisor Action: Denial Allowed

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

E-mail: [REDACTED]

Fax: 202-493-6937

5890

11 January 2011

VIA MAIL and EMAIL: [REDACTED]

[REDACTED]
Gulfport, MS 39503

RE: Claim Number: N10036-0181

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0181 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0181.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,
[REDACTED]

U. S. Coast Guard
Claims Manager

CLAIM SUMMARY / DETERMINATION FORM

Date	11 January 2011
Claim Number	N10036-0181
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$10,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

Mr. [REDACTED] (Claimant) presented a claim to the National Pollution Funds Center (NPFC) Oil Spill Liability Trust Fund (OSLTF) seeking \$10,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil spill. This claim was presented on 06 December 2010.

According to Claimant, no income or other financial records are available for a period including all or most of 2007-2009 due to incarceration. Prior to the Deepwater Horizon incident, Claimant states he worked for his uncle, [REDACTED] at [REDACTED] [REDACTED] from January 2010 to May 2010. The Claimant asserts that he was employed as a floor cleaner earning \$33.00 per hour. Claimant further asserts that he was laid off from [REDACTED] in May 2010 due to a business slow down stemming from the Deepwater Horizon incident and this serves as the bases for his claim.

APPLICABLE LAW:

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party, 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPEC, to support the claim. Under 33 CFR 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered.

Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support the claim, the Claimant presented several documents including the NPFC Optional OSLTF Claim Form dated 06 December 2010 and sales invoices dated 19 November 2010 with notes in description column, making it difficult to determine who authored the document. In October 2010, Claimant presented a claim to the RP and was assigned claimant identification number # [REDACTED]. That original claim was denied in a letter from the GCCF dated 30 November 2010. The claimant provided earnings statements for various post-incident employers. These statements cover the pay periods ending 5/16/10 through 11/14/10. During that 6-month period, the claimant earned wages totaling \$16,364 at an average hourly rate of \$14.89, including over-time. In total, the claimant worked approximately 1,100 hours during the six months following the Deepwater Horizon incident, or an average of 42.3 hours per week.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Claimant has been unable to provide a letter of termination or any other documentation from [REDACTED] substantiating pre-incident earnings, the period of employment, or the reason(s) for the termination.

The documents submitted by Claimant demonstrate that he was consistently employed on a more than full-time basis for the six months immediately following the Deepwater Horizon incident performing oil spill cleanup response work. The claim is denied because the alleged loss in the amount of \$10,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: [REDACTED]
Date of Supervisor's review: 1/11/11
Supervisor Action: <i>Denial approved</i>
Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

5890/DWHZ
Claim # N10036-0182
17 February 2011

Re: Claim Number: N10036-0182

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0182. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0182.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]
Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11

FOIA2001-3380-0000738

CLAIM SUMMARY / DETERMINATION FORM

Date	: 17 February 2011
Claim Number	: N10036-0182
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: [REDACTED]
Claim Manager	: LCDR Michael G. Barton, USCGR
Amount Requested	: \$15,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$15,000 in lost profits and earnings as a result of the Deepwater Horizon oil spill.

The Claimant worked in the motorcycle service industry for the past two years. From May 2008-December 2008, she worked for Panama City Cycles (PCC) in parts and as a services advisor. Then in March 2009, she began working in the service department at [REDACTED]. Claimant asserts her compensation at [REDACTED] was \$12 or \$13 an hour with five hours of overtime a week and sales commission ranging from \$900 to \$1200 per month.¹

Claimant further asserts that as a result of a decrease in business, [REDACTED] terminated her sales commission in April 2010.² BJC also reduced her weekly hours from 45 to 30. Claimant consequently began seeking other employment and was hired at DP Enterprises on 09 August 2010.³ Claimant left BJC on 11 August 2010 and continued working with DP Enterprises (DP) until the first week in November 2010, at which time she quit DP Enterprises due to a lack of hours⁴ and returned to PCC, where she averaged 30 hours a week at \$9.38 an hour. Claimant continued with this employment until the date she presented her claim.⁵ According to Claimant, her loss encompasses lost wages and lost commissions while employed with [REDACTED] and after voluntarily terminating employment with [REDACTED].

¹ Letter from Claimant dated 13 December 2010.

² Letter from Claimant dated 13 December 2010; Letters from [REDACTED] dated 07 October 2010 and 22 December 2010.

³ Letter dated 07 October 2010 from [REDACTED], Office Administrator at [REDACTED], stating Claimant was hired on this date. In Claimant's letter dated 13 December 2010, she asserts that she was out of work for two weeks after leaving BCC; however a letter from [REDACTED] states Claimant's employment ended on 11 August 2010, indicating she had already been hired by [REDACTED] at the time she left [REDACTED].

⁴ Letter from Claimant dated 06 December 2010; Claimant's calculation of loss memo.

⁵ Letter from Claimant dated 06 December 2010.

⁶ Claimant's calculation of loss memo.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost;
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form dated 06 December 2010;
- Claimant's calculation of loss memo;

- [REDACTED] commission report from 24 December 2009 through 31 January 2010, 01-31 March 2010, & 01-31 April 2009;
- Letter from Claimant to BP requesting information as to why her claim was denied, dated 01 December 2010;
- Letter from [REDACTED] Office Administrator at [REDACTED] explaining nature of Claimant's employment with attached payroll register;
- Payroll Journals from [REDACTED] for January through August 2010;
- Letter from [REDACTED] explaining nature of Claimant's employment, dated 07 October 2010;
- Claimant's 2008 and 2009 federal tax returns;
- GCCF denial letter dated 02 November 2010, denying payment on claim for Emergency Advance Payment;
- Letter from Claimant explaining nature of her loss and denial by GCCF, dated 06 December 2010;
- Letter from [REDACTED] attesting to loss of tourism in the Greater Panama City area, undated;
- [REDACTED] commission check dated 01 April 2010;
- [REDACTED] commission check dated 20 April 2010;
- [REDACTED] paystub from 19 February 2010;
- South Carolina Unemployment Benefits Determination dated 14 January 2008;
- 2008 W-2 from [REDACTED];
- 2007 W-2 from [REDACTED];
- Letter from Claimant explaining nature of her loss, dated 13 December 2010;
- Letter from [REDACTED] President of [REDACTED] explaining nature of Claimant's employment, dated 22 December 2010;
- [REDACTED] paystub from 23 April 2010;

Claimant seeks \$15,000.00 in lost wages and commissions, while employed with BJC and after voluntarily terminating employment with BJC, allegedly as a result of the Deepwater Horizon oil spill.

On 07 October 2010, the Claimant filed a six month Emergency Advance Payment claim for \$8,000.00 in lost profits and earnings with the GCCF. The Claimant was assigned GCCF Claimant ID [REDACTED] and Claim [REDACTED]. On 02 November 2010, the GCCF denied this claim. The NPFC verified this information.

NPFC Determination

The claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

The NPFC is unable to determine that Claimant's monthly wages with [REDACTED] (including her monthly sales bonus) were reduced as a result of the Deepwater Horizon oil spill. For example, Claimant asserts that business at [REDACTED] was slow during the last week of April first week of May time frame, when the [REDACTED] occurs on a yearly basis in Pensacola, due to people's fear of contaminated beaches in the Florida Pan Handle. This event occurred barely a week after oil spill first occurred at a time when published oil spill trajectories did not indicate a potential

⁷ The Claimant has two Final Payment claims under review with the GCCF.

for oiling of Pensacola Beaches.⁸ Claimant has not provided objective evidence to support her assertion that BJC incurred a loss of business as a result of the Deepwater Horizon oil spill as opposed to other economic factors that were occurring at the same time. Further, as described below, Claimant's evidence indicates that she worked more during the month of April than any month during 2010. This is in direct contradiction to Claimant's original assertion that the oil spill affected her business during that month.

The documentation presented by the Claimant provides inconsistent information upon which to calculate an economic loss. For example, in separate documents the hourly rates that Claimant earned at [REDACTED] are asserted as being twelve,⁹ thirteen,¹⁰ and fourteen¹¹ dollars an hour. Claimant's lost earnings calculations are based on a rate of thirteen dollars an hour; however, the President of [REDACTED] contradicts this figure in a letter dated 22 December 2010, in which she states that Claimant earned twelve dollars an hour. As a result, the Claimant's alleged loss can not accurately be calculated based upon the evidence presented.

Assuming an hourly rate of thirteen dollars per hour as suggested by the Claimant, her hours at BJC from January to July of 2010 are calculated as follows:

Table (1)

Calculation of Hours Per Week Based Upon Monthly Payroll Journals

Month in 2010	Regular Monthly Wages Before Deductions	Hourly Wage ¹²	Number of Hours Worked This Month	Average # of Hours Per Week ¹³
January	926.64	13.00 per hour	71.28	17.8
February	1,865.84	13.00 per hour	143.526	35.9
March	1371.18	13.00 per hour	105.4754	26.4
April	3,234.49	13.00 per hour	248.807	62.2
May	1572.31	13.00 per hour	120.947	30.2
June	1552.72	13.00 per hour	119.44	29.9
July	2202.68	13.00 per hour	169.437	42.4
Claimant departed BJC in August so this month will not be included in the calculation				

As depicted in Table (1) above, the number of hours worked each week by the Claimant does not show an impact by the Deepwater Horizon oil spill. Without some other corroborating evidence to indicate an unusual pattern of hours following the Deepwater Horizon oil spill, Claimant has not met her burden of showing either that her hours were reduced or that she experienced an economic loss.

Finally, Claimant voluntarily left her position at [REDACTED] for a second and then a third position for less pay and either fewer or similar hours. The reduced hours and wages that Claimant received

⁸ See, ex. NOAA trajectories 26 April to 06 May 2010 retrieved 16 February from http://response.restoration.noaa.gov/dwh.php?entry_id=812

⁹ Letter from Claimant dated 13 December 2010.

¹⁰ Claimant's calculation of loss memo.

¹¹ Letter from Claimant dated 06 December 2010.

¹² Claimant reports a wage of \$13.00 per hour on her January 2010 [REDACTED] which amount shall be used as her hourly wage in this calculation.

¹³ The NPFC considered used four weeks per month for this calculation to ensure consistency for comparative purposes.

after leaving [REDACTED] for [REDACTED] and then again after leaving [REDACTED] for [REDACTED]
[REDACTED] resulted from her choice to leave her employment with [REDACTED]—not the Deepwater
Horizon oil spill.

Claimant has not proven that her calculated economic loss resulted from the injury, destruction
or loss of property, or natural resources, as a result of a discharge or substantial threat of
discharge of oil. Her claim for lost wages and earning capacity is denied.

Claim Supervisor:



Date of Supervisor's Review: 2/17/11

Supervisor's Actions: Denial all/none

Supervisor's Comments:

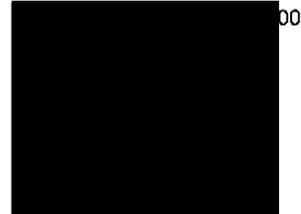
U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

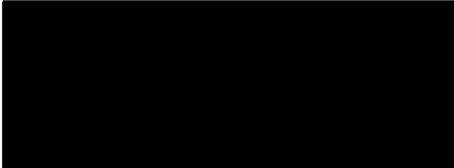
NPFC CA MS 7100
US COAST GUARD



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number [REDACTED]

5890/DWHZ
Claim # N10036-0183
02 March 2011



Re: Claim Number: N10036-0183

D [REDACTED]

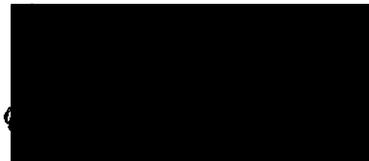
The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies claim number N10036-0183 relating to the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0183.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



U. S. Coast Guard
Claims Manager

Enclosures: (1) Claim Summary/Determination Form
(2) List of Documentation Provided by Claimant N10036-0183

CLAIM SUMMARY / DETERMINATION FORM

Date	28 February 2011
Claim Number	NI10026-0182
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$35,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [REDACTED] on behalf of [REDACTED] (Claimant), presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$35,000.00 in lost profits & earnings allegedly resulting from the Deepwater Horizon oil-spill.

Claimant operates a care giving business in Mobile, Al, under the DBA "Reliable Sitting Services." The Claimant has been operating the subject business since 2005.¹ The Claimant's business provides care for elderly patients in their homes which include cooking, cleaning, grocery shopping, and running errands for the patients.

Claimant asserted that as a result of the Deepwater Horizon oil-spill, her clients and/or their sponsors "took a hard hit," lost money, and could not afford the Claimant's services.² Claimant asserted that she lost a total of eight to nine regular clients as a result of the Deepwater Horizon oil-spill.³

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the

¹ Claimant's response to the document request, received by NPFC on 07 January 2011.

² Claimant's response to the document request, received by NPFC on 07 January 2011.

³ PHONE CON between the NPFC and Claimant on 01 March 2011.

responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted various documents including 2007 through 2009 Income Tax Returns, profit and loss statements separated by patients and various invoices in support of her profit and loss statements. The NPFC requested additional financial information specific to the Claimant's business and operations. The Claimant responded by providing various documents specific to her business. All of the documentation presented by Claimant is listed in enclosure (2).

On 14 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$35,874.00 in lost profits with the GCCF. She was assigned GCCF Claimant ID [REDACTED] and Claim [REDACTED]. This claim was denied by the GCCF.⁴

⁴ The NPFC verified this information. The claimant has a Final Payment claim under review with the GCCF.

NPFC Determination

This claim is denied because the alleged loss in the amount of \$35,874.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claimant provided monthly profit and loss statements to support a decline in revenue. She asserted that the majority of her client's sponsors own businesses in the retail, restaurant, and condo rental industries. Claimant alleged that her clients and/or their sponsors were directly affected by the Deepwater Horizon oil-spill and as a result, could no longer afford her services.

To support this allegation, Claimant provided letters on behalf of three clients, which stated that they were removed from [REDACTED] care since their sponsors were impacted by the Deepwater Horizon oil-spill and could not afford [REDACTED].⁵ Claimant does not provide any documentation to corroborate that the contents of the letters, i.e., that the clients and/or sponsors were negatively affected by the Deepwater Horizon incident. Additionally, the NPFC cannot verify the content of the letters because the letters provide no contact information for the alleged clients.

Claimant, in short, has not provided documentary evidence to substantiate that her claimed losses were due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: [REDACTED]

Date of Review: 3/2/11

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

⁵ Verification letters from three clients, [REDACTED] dated 15 December 2010, [REDACTED] dated 15 December 2010, and [REDACTED] dated 15 December 2010. These letters are written by the Claimant and purportedly signed by clients.

List of Documentation Provided by Claimant N10036-0183

1. NPFC OSLTF Claim form, dated 27 November 2010, received 6 December 2010.
2. Receipts provided for the following clients:
 1. [REDACTED] January 2010 - June 2010
 2. [REDACTED] January 2010 - May 2010
 3. [REDACTED] January 2010 - April 2010
 4. [REDACTED] January 2010 - June 2010
 5. [REDACTED] gton: January 2010 - November 2010
 6. [REDACTED] : January 2010 - May 2010
 7. [REDACTED] January 2010 - July 2010
 8. [REDACTED] January 2010 - June 2010
3. 31 December 2010 Profit and Loss Statement for the following clients
 1. [REDACTED]
 2. [REDACTED]
 3. [REDACTED]
 4. [REDACTED]
 5. [REDACTED]
 6. [REDACTED]
 7. [REDACTED]
4. [REDACTED] statements for 1 February 2009 - 31 December 2009.
5. [REDACTED] statements for 1 January 2009 - 28 February 2009, 1 April 2009 - 30 June 2009, 1 August 2009 - 31 December 2009.
6. Maps
7. Copy of claimant's ID and Social Security card.
8. Business license
9. Letters of explanation provided by Claimant, dated 6 November 2010 and 10 November 2010.
10. Claimant's response to document request received by NPFC 7 January 2011.
11. 2007, 2008 and 2009 Income Tax Returns.
12. Verification letter by three clients, [REDACTED] dated 15 December 2010, [REDACTED] dated 15 December 2010, and [REDACTED] dated 15 December 2010.
13. Denial letter by GCCF, dated 4 December 2010.

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937
5890
2/14/2011

VIA MAIL AND EMAIL [REDACTED]

RE: Claim Number: N10036-0186

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0186 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0186.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000749

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/11/2011
Claim Number	: N10036-0186
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$14,500.00

FACTS:

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 1, 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$14,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost income as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to her claim with the GCCF, but stated her claim was denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) 09/13/11 That real or personal property or natural resources have been injured, destroyed, or lost

FOIA2001-3380-00000750

- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, December 1, 2010.
- Statement from [REDACTED] dated October 14, 2010 which states Claimant was an independent contractor and worked as an entertainer. Letter gave a recap of tipped income prior during the 2010 year.
- Personal statement from Claimant regarding her situation dated November 18, 2010.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the documents provided by the Claimant, she indicated that earnings were reduced as a result of the Deepwater Horizon Incident. On December 27, 2010, the NPFC mailed a request for additional information to the Claimant via certified mail in order to obtain the necessary information to be able to adjudicate the claim.

The Claimant has not provided the additional documents nor answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: 

Date of Supervisor's review: *2/14/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

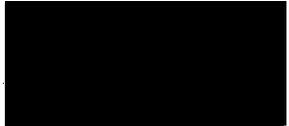
NPFC CA MS 7100
US COAST GUARD



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0187
28 February 2011



C/O: [REDACTED]

RE: Claim Number: N10036-0187

Dear [REDACTED]

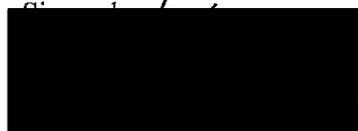
The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies your claim relating to the Deepwater Horizon incident. Please see the enclosed Claim Summary Determination form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the Claimant, be deemed final agency action. All correspondence should include claim number N10036-0187.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 09 February 2011
Claim Number	: N10036-0187
The Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$22,800.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, [REDACTED] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC), through his legal representative,¹ seeking \$22,800.00 in lost profits and earnings allegedly resulting from the Deepwater Horizon oil-spill.

Claimant's submission indicated that he worked as a roustabout for [REDACTED] on Rig 4 in the Gulf of Mexico.² Claimant asserted that he lost wages and his job as a result of "repercussions from oil spill . . .," which caused "oil industry damage; lack of work; lack of drilling." Claimant indicated that he offset his losses by way of obtaining temporary employment.³

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

¹ Claimant's OSLTF claim form is signed by a legal representative. Additionally, a cover letter submitted along with the OSLTF claim form is signed by [REDACTED] legal assistant to [REDACTED]

² GCCF claim form. [REDACTED] is headquartered in New Iberia, LA.

³ GCCF claim form indicates that Claimant went to work for Prottemp for \$15.10 hourly base and \$23.00 hourly overtime. It is unclear if Claimant continues to work for [REDACTED]

by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for—

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation to the NPFC:

- OSLTF Claim Form dated 19 November 2010;
- Correspondence from [REDACTED] to NPFC on behalf of the Claimant requesting emergency compensation dated 29 November 2010;
- GCCF Denial Letter dated 23 October 2010 for Claimant;
- Correspondence from [REDACTED] to GCCF on behalf of the Claimant requesting emergency compensation dated 30 August 2010;
- GCCF Claim Form dated 27 August 2010;
- GCCF Protocol for Emergency Advance Payments dated 23 August 2010;
- Deepwater Horizon oil spill article and information sheet from Wikipedia;
- Copies of 2008 and 2009 Nabors Offshore Corporation W-2s; and

- Earnings Statement for the pay period ending 6/13/10 from Nabors Offshore Corporation.

Claimant seeks \$22,800.00 in lost earnings based upon being laid off from his employment as a roustabout for [REDACTED] Claimant attributed this loss to the Deepwater Horizon oil-spill.

On 29 June 2010, Claimant filed a claim with the responsible party, BP.

On 09 September 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for \$22,800.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [REDACTED] and EAP Claim [REDACTED]. On 23 October 2010, the GCCF denied this Claim.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the Claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a Claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Claimant has not provided evidence demonstrating that his employment at [REDACTED] Corporation was terminated as a result of the Deepwater Horizon oil-spill. Neither the Claimant nor his legal representative have been responsive to repeated NPFC requests for additional information.

The claim is denied because the alleged loss in the amount of \$22,800.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Additionally, the Claimant has failed to meet his burden to demonstrate a loss of profits and earnings because the Claimant failed to respond to the NPFC's request for additional information in order to support his claim.

Claim Supervisor: [REDACTED]
Date of Review: 2/27/11
Supervisor's Action: <i>Denial approved</i>
Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

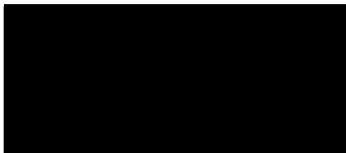
NPFC CA MS 7100
US COAST GUARD

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0189
14 February 2011



RE: Claim Number: N10036-0189

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0189 involving the Deepwater Horizon incident. Please see the attached Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0189.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely



Claims Manager
U.S. Coast Guard

Enclosure: (1) Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 14 February 2011
Claim Number	: N10036-0189
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$18,080.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [REDACTED] on behalf of [REDACTED] (Claimant), presented a lost profits & earnings claim in the amount of \$18,080.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted that the “business has suffered a devastating lost as a result of the oil spill” as clients are “not responding to...advertising as before”.¹ The business consisted of “charter coaches (from 20 up to 503 passenger) departing from Atlanta and Georgia metro areas to Panama City Beach Florida, fishing in the Gulf of Mexico ([REDACTED]), hotel accommodations and other chartered boats”.² Claimant added that “initially Joyful Events were being compensated from month to month for our losses in the amount of \$2,260.00, each month starting with the month of April through September 2010.”³

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

¹ See, letter from Claimant to the NPFC dated 22 November 2010

² See, letter from Claimant to the NPFC dated 22 November 2010

³ See, letter from Claimant to the NPFC dated 22 November 2010

09/15/11

ENCLOSURE

FOIA2001-3380-0000758

by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(e).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, Claimant presented the NPFC with a typed letter, explaining the claim components and including a sum certain in the amount of \$18,080.00. This letter, dated 22 November 2010, was received by the NPFC on 03 December 2010. Claimant also presented a copy of the GCCF claim submission along with certain business specific advertisement and licensing documents, limited bank statements, tax return data, itemized receipts and website information.

Claimant also advised that a claim with the GCCF, Claimant Identification Number: [REDACTED] for an Emergency Advanced Payment which was denied in a letter dated 12 November 2010.

NPFC Determination

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to

support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to demonstrate a loss of profits and earnings as a direct result of the Deepwater Horizon incident. The NPFC made an official request for additional information on 28 December 2010. Claimant was given 14 days initially and a subsequent extension period in which to provide the requested information, request an extension or contact NPFC for a status update and has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA. There has been no further correspondence from the Claimant regarding the claim and therefore the claim is denied.

Claim Supervisor:

Date of Supervisor's review: *2/14/11*

Supervisor Action: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]
Fax: 202-493-6937
5890
12/20/2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Number: [REDACTED]

Sent via Email: [REDACTED]

[REDACTED]

Marrero, LA 70072

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the claim number N10036-0190 involving Deepwater Horizon details.

You may make a written request for reconsideration of this claim. The request must be received by the NPFC within 60 days of the date of this letter and must include a request for reconsideration, providing any additional support for the claim. If you are unable to gather particular information within the time period, you may request an extension of time for a specified duration with your reconsideration request. A claim may be reconsidered only once. A denial of that reconsideration in writing will constitute final agency action. Failure to submit a written decision within 90 days after receipt of a timely request for reconsideration will be deemed final agency action. All correspondence should include claim number N10036-0214.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[REDACTED]

Claims Manager
U.S. Coast Guard

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PS Form 3800, August 2006	

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CLAIM SUMMARY / DETERMINATION FORM

Date	20 December 2010
Claim Number	N10036-0190
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$15,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a \$100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).¹

CLAIM AND CLAIMANT

On 2 December 2010 [REDACTED] (Claimant) submitted an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$15,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil spill. At the time of the spill, Claimant worked for [REDACTED] in Lafitte, LA. [REDACTED] designs and constructs marine vessels, which provide services to the offshore oil and natural gas industry. Some of its products and services include: the [REDACTED] (used in offshore drilling, mining and exploration), custom fabricated

¹ U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

drilling barges and various lift boats. [REDACTED] has been servicing the offshore oil and natural gas industry consistently since [REDACTED]²

On 25 October 2010, [REDACTED] issued a notice to all employees indicating their hours would be reduced to a maximum of 32 hours per week.³ Payroll records indicate that the claimant was working 40 hours or more per week prior to October 2010. Payroll records submitted for November 2010 reflect the reduction to 32 hours per week as mandated by [REDACTED]⁴. The reduction in hours, and related reduction in pay, was due to the moratorium on drilling.⁵ Claimant was denied a previous claim with the RP and has submitted a claim for lost earnings and profits to the OSLTF.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), 33 USC § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge or substantial threat of discharge of oil into navigable waters and adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136, to pay claims for uncompensated damages. Damages pursuant to 33 CFR §136.231 include claims for loss of profits or impairment of earnings capacity due to injury, destruction or loss of real or personal property or natural resources.

With certain exceptions, a claimant must first present their claim to the responsible party. 33 USC § 2713(a). If the claim is not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 USC § 2713(c).

Under 33 CFR § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved

² See [REDACTED] company website at: [REDACTED]

³ See [REDACTED] dated 10/25/2010, and submitted to the NPFC by the claimant of 12/07/2010

⁴ See [REDACTED] pay stubs, dated 6/04/2010, 6/11/2010, 11/12/2010, 11/18/2010 and 11/24/2010, submitted to the NPFC by the claimant on 12/07/2010

⁵ See Optional OSLTF Claim Form, filled out and submitted to the NPFC by the claimant on 12/07/2010

overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 CFR 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earnings capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

A. Overview

Claimant submitted, and the NPFC reviewed, the following list of documentation:

1. Optional OSLTF Claim Form Submission dated 02 December 2010.
2. [REDACTED] (employer) correspondence dated 25 October 2010.
3. 2009 W-2 Wage and Tax Statement
4. [REDACTED] payroll stubs for pay periods ended, 5/30/10, 6/6/10, 11/7/10, 11/14/10, and 11/21/10.

B. Analysis

Under 33 USC § 2702(b) and 33 CFR Part 136, a claimant must prove that his loss of income is due to the injury, destruction or loss of real or personal property or natural resources resulting from the discharge or substantial threat of discharge of oil. All documentary evidence submitted by Claimant indicates that his loss directly resulted from a directive issued by the Department of the Interior imposing a six month offshore drilling moratorium in order to implement new safety requirements.⁶ As a result, Claimant's claim is determined to be a direct result of the moratorium, not a direct result of an oil discharge. The claim is not compensable under the OPA.

AMOUNT: \$0.00

DETERMINATION: [REDACTED] claim for \$15,000.00 to the OSLTF is denied.

Claim Supervisor: [REDACTED]

Date: 12/20/10

Supervisor's Actions: DENIAL APPROVED

⁶ See US DOI MMS MORATORIUM.

U.S. Department of
Homeland Security

**United States
Coast Guard**



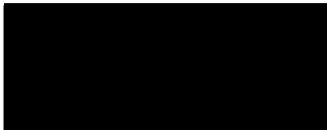
Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100



CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number [REDACTED]

5890/DWHZ
Claim# N10036-0193
22 February 2011



RE: Claim Number: N10036-0193

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0193 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0193.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,



U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 February 2011
Claim Number	N10036-0193
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$7,500.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$7,500.00 in lost profits and earning capacity to the National Pollution Fund Center (NPFC) alleging damages resulting from the Deepwater Horizon incident.

The Claimant worked on the staff of [REDACTED] in Gretna, Louisiana, during 2010. This information is based on copies of paystubs the Claimant provided. The Claimant provided copies of her medical diagnosis from the Ochsner Medical Center in Gretna and other medical facilities. The Claimant had been complaining of nausea. It is unclear by the Claimant's submission whether her medical condition is considered part of her alleged damages.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the NPFC OSLTF Claim Form dated 3 December 2010, 2008 and 2009 Income Tax Returns, copies of her social security card and ID, and paystubs from [REDACTED] for April 2010, May 2010, and September 2010. The Claimant also provided medical documentation from the [REDACTED] for November 2010, a copy of her insurance card and a Radiology Order from [REDACTED] dated 1 April 2010.

On 30 December 2010, NPFC sent the Claimant a letter requesting additional information in order to obtain the necessary information to be able to adjudicate the claim. As of the date of this Determination, the Claimant has not responded to the request for additional information. The request was sent Certified Mail Return Receipt Requested. The Receipt returned to NPFC showed the letter was delivered to the Claimant on 14 January 2011.

Claimant is claiming lost earnings and wages \$7,500.00

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID # [REDACTED] and Claim [REDACTED]. On 06 November 2010 the GCCF denied her claim. This information was verified by the NPFC.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that her loss of income was due to the injury or destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation submitted by the Claimant.

The claim is denied because the evidence presented by the Claimant does not demonstrate that her alleged loss is a direct result of the Deepwater Horizon incident. On 30 December 2010, NPFC sent the Claimant a letter requesting additional information in order to further evaluate her claim. The Claimant did not respond to the request for information. Since the Claimant did not respond to the NPFC's request for additional information, the Claimant has not established that her alleged loss is a direct result of the Deepwater Horizon incident and therefore her claim is denied.

Claim Supervisor: 

Date of Supervisor's Review: *2/21/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 800-280-7118
E-mail: [REDACTED]
Fax: 202-493-6937
5890
Claim # N10036-0194
19 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
Tylertown, MS 39667

RE: Claim Number: N10036-0194

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0194 involving Deepwater Horizon. Please see the enclosed Claim Summary / Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0194.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-710

Sincerely,

[REDACTED]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date : 19 January 2011
Claim Number : N10036-0194
Claimant : [REDACTED]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [REDACTED]
Amount Requested : \$25,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [REDACTED] (Claimant) presented an Oil Spill Trust Fund (OSLTF) claim form seeking \$25,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.¹

The claimant's submission indicates that he worked for [REDACTED]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

¹ Claimant's Optional OSLTF claim form submitted to NPFC on 03 December 2010.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, claimant presented the following documentation: optional OSLTF claim form; 2008 and 2009 W-2's for [REDACTED]; and pay check stubs from [REDACTED] from March 8 through July 24, 2010.

On October 04, 2010, claimant filed for an Emergency Advance Payment (EAP) with the GCCF for \$25,000 in lost wages/earnings. Claimant was assigned claimant ID # [REDACTED]. On October 23, 2010, GCCF denied claimant's request for EAP.

On December 03, 2010, claimant filed a claim for \$25,000 in lost profits and earning capacity with NPFC. On December 28, 2010, NPFC sent claimant a certified letter requesting additional information. On January 18, 2011 during a phone conversation between the claimant and NPFC, the claimant confirmed receipt of the NPFC request and indicated that he could not provide any additional information. The claimant also indicated that his employment with [REDACTED] was terminated for reasons other than the Deepwater Horizon incident.²

NPFC Determination

This claim is denied. Under 33 C.F.R. §136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the evidence presented by the Claimant does not show that his loss was related to the Deepwater Horizon incident.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: 19 January 2011

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

² Phone conversation between [REDACTED], NPFC, and the Claimant on 18 January 2011.

U.S. Department
of Homeland
Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 1-800-280-7118
E-mail: [REDACTED]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7083 3908

[REDACTED]
New Orleans, LA 70122

5890/DWHZ
Claim # N10036-0195
24 January 2011

Re: Claim Number: N10036-0195

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0195.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]

U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	20 January 2011
Claim Number	N10036-0195
Claimant	[REDACTED]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[REDACTED]
Amount Requested	\$15,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 November 2010, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$15,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted that her work hours and earnings were reduced as a result of the Deepwater Horizon incident.

Claimant is employed by [REDACTED] in New Orleans, Louisiana. [REDACTED] is similar to a "rent-to-own" business with retail outlets that offer various home products including furniture, appliances and electronics. Claimant stated on her OSLTF Claim Form that her work hours were reduced and she was not able to earn a bonus due to declining business following the Deepwater Horizon incident. The information provided by Claimant implies that she is employed in a sales position since she receives commissions. In a letter provided by the Claimant from her employer, it stated that the employee typically works 55 hours per week and "income is solely based on bonuses and commissions"¹ Claimant asserted that her earnings declined as a direct result of the Deepwater Horizon incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

¹ See letter from [REDACTED] (undated and position not identified) on [REDACTED] letterhead

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;
- (c) Potential income from alternative employment or business not undertaken, but reasonably available;
- (d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- (e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated 30 November 2010, a letter from her employer and various earnings statements from 2010.

Claimant submitted an Emergency Advance Payment claim to the GCCF on 23 September 2010 and was issued GCCF Claimant ID # [REDACTED] and Claim # [REDACTED]. GCCF denied the claim. This information was verified by the NPFC.

NPFC requested additional information in order to evaluate the claim. A letter requesting additional information was mailed Certified Return Receipt Requested # [REDACTED]

■ USPS Tracking showed the Claimant signed for delivery on 20 December 2010. To date, no response has been received by the Claimant proving her claim.

NPFC Determination

The Claimant's earnings from ■ through 09 October 2010 were \$21,806 year-to-date. This information is based on the earnings statements submitted by Claimant. The Claimant did not respond to NPFC's Certified letter requesting additional information. Without the requested information, the Claimant has not demonstrated that she had a loss of earnings as a direct result of the Deepwater Horizon incident.

The claim for lost profits and earning capacity in the amount of \$15,000 is denied because the Claimant has not demonstrated a loss resulting from the Deepwater Horizon incident. The information provided by Claimant indicates that her earnings were not impacted following the Deepwater Horizon incident.

■
Claim Supervisor

Date of Review: 1/24/11

Supervisor's Comments: *Denial approved*

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].mil
Fax: 202-493-6937

5890
6/1/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

RE: Claim Number: N10036-0196

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0196 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[REDACTED]

U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-0196
Claimant	: [REDACTED]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$28,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT:

On 18 November 2010, [REDACTED] (Claimant), on behalf of [REDACTED] presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) claiming lost profits and earnings in the amount of \$28,000.00.

The Claimant owns a Mortgage brokering firm that provides home mortgage loan services to clients in and around the area of Navarre, Florida. The Claimant's revenue is comprised of commissions related to loans for property purchases and mortgage refinancing which they broker to their customers. Following the Deepwater Horizon oil spill, Claimant's monthly commissions began to decrease. The Claimant asserted that the overall economic impact of the oil spill on the Navarre, Florida region has caused a decrease in real estate property values and generally caused a decline in investors' willingness to purchase real estate.

Claimant asserted total lost earnings of \$28,000.00, but provided no clear basis for the estimate. Instead, the Claimant has provided five potential areas where lost revenue from canceled closings or missed opportunities on refinancing loans due to the oil spill could have occurred.

The five (5) items presented by Claimant are provided below:

1. A single property closing that was cancelled and purchased at a later date for a lower price.

Claimant contended that a buyer went into contract to purchase a home on [REDACTED], Florida for \$422,000.00 on April 20, 2010 and subsequently decided not to close on the property allegedly "due to concerns over the oil spill." The same buyers then purchased the property in September 2010 for \$380,000.00, which is \$42,000.00 less than the original intended purchase price. The Claimant is requesting the lost commissions on the difference between the original April 2010 loan amount and the actual loan amount in September 2010.

2. Property sale closings that were cancelled because their seller backed out of their purchase.

Claimant contended that a buyer was approved to purchase a home on 1509 East Lloyd Street Pensacola, Florida. The buyer's purchase of the Pensacola property was pending the sale of their own property in Navarre, Florida. The Claimant suggested that the buyer cancelled the purchase for the home in Navarre Beach because of the oil spill. As a result, the potential buyers were then unable to purchase the home in Pensacola Florida which would have generated commissions for the Claimant.

3. Inability to refinance loans for clients whose property values decreased. There has been no evidence presented to confirm the decrease in values was due to the oil spill.

Claimant is requesting lost refinancing origination fees from their clients. The Claimant contended that they were unable to refinance certain mortgages because the property values had declined lower than the amount of the homeowner's outstanding loan balances which the Claimant asserts was due to the oil spill.

4. Cancelled property sales and financing opportunity.

Claimant is requesting lost commissions for a buyer that went under contract for a property at [REDACTED] Florida but backed out as a result of the oil spill.

5. Prospective buyers that did not purchase property and obtain financing due to oil spill.

Claimant contended that they had pre-approved buyers, but these buyers decided to rent property and wait for the outcome of the housing market.

Claimant filed an initial claim with the RP (BP) sometime during May 2010. Claimant was issued Claim # [REDACTED]. Claimant stated the claim was denied by the RP. After filing a claim with the RP, Claimant filed a secondary claim with the GCCF sometime during August 2010 and was issued Claimant Identification # [REDACTED]. Claimant stated the claim with the GCCF was denied. Claimant has not provided any correspondence associated with claims filed with the RP and the GCCF. In addition, the Claimant has not indicated if a claim was filed with the Real Estate Fund.

On March 16, 2011, the NPFC denied [REDACTED] claim on the grounds that the Claimant provided the Good Faith Estimate (GFE Form) associated with the original purchase contract. On that form, the Claimant's adjusted origination charges were \$980.00 on a loan amount of \$337,600.00.¹ The actual purchase of the property was financed with a principal loan amount of \$304,000.00. Based on the HUD-1 Settlement Statement Line #803, the Claimant received adjusted origination charges of \$1,020.00.² The email correspondence provided to the NPFC details that a risk evaluator's analysis revealed that the devaluation impacted the transaction as opposed to the buyer's concerns over the oil spill.³ Based on the actual adjusted original charges as reviewed by forensic accountants, it did not appear that the Claimant had sustained a reduction in commissions from that transaction.

¹ See, Housing and Urban Development (HUD) Good Faith Estimate (GFE) page 2, *Adjusted Origination Charges*

² See, Housing and Urban Development (HUD) Settlement Statement page 2, *Item 803, Your Adjusted Origination Charges*

³ See, Email correspondence between buyers and agent, dated 13 July 2010, received on 03 March 2011

For all other areas of the claim referenced in Items #2 through 5 of the *Claim and Claimant* section, the Claimant had not proven that the alleged losses are due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity.

Although the Claimant speculated that the oil spill caused a reduction in the loans they originated, they hadn't provided any evidence that the Deepwater Horizon oil spill directly caused this reduction, rather than other extraneous economic factors. As such, the claimed amount of \$28,000.00 was determined not to be compensable under OPA and therefore the claim was denied.

On May 11, 2011, the Claimant requested reconsideration of the NPFC's March 16, 2011 denial based on the following information:

1. The Claimant alleged that the calculations used by the NPFC in its initial denial were not correct. The Claimant stated that the adjusted origination found on the Good Faith Estimate form (GFE) is not what is paid to the Claimant but rather what is paid to the Borrower of a mortgage loan. The Claimant goes on to explain that the adjusted origination fee is the total charges (less the yield spread premium (YSP) paid by the bank). The Claimant asserted that the number the NPFC should be looking at is the origination fee which is found on page 2 of the GFE and the Claimant is paid what is on line 1 of page 2 of the GFE when the closing occurs.
2. The Claimant itemized the following costs for consideration which make up the Claimant's requested sum certain:
 - a. [REDACTED] loss of \$3,089.44 (difference between the original GFE and the final GFE after the contract was amended. This loan closed therefore the Claimant is looking for the reduction that resulted due to a renegotiation of the purchase price;
 - b. [REDACTED] loss of \$3,693.20 (this loan did not close; Claimant asserts the Seller backed out due to the oil spill);
 - c. [REDACTED] loss of \$6,345.00 (this loan did not close; Claimant asserts that the appraised value was too low);
 - d. [REDACTED] loss of \$3,635.00 (this loan did not close; Claimant asserts the appraised value was too low);
 - e. [REDACTED] loss of \$6,355.00 (this loan did not close; Claimant asserts the appraised value was too low);
 - f. [REDACTED] loss of \$4,072.65 (this loan did not close; Claimant asserts the oil spill scared the Buyer and she backed out of the purchase).

The six (6) contracts listed above total a claimed loss of \$27,190.29.

3. The Claimant also included a copy of her 2010 Income Tax Return which she asserts is exactly 68% of her 2009 gross which indicates a 32% decline which she asserts has not been considered. Claimant further asserts that she has provided

substantial evidence to support the fact her business income has been drastically lower than that of comparable periods in previous years.

Reconsideration Claim Analysis

The Claimant requested reconsideration via mail service received by the NPFC on May 11, 2011.

NPFC Determination on Reconsideration

The Director, NPFC, upon written request of a claimant or a person duly authorized to act on the claimant's behalf, reconsiders any claim denied. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d).

The NPFC performs a *de novo* review of the entire claim submission upon reconsideration.

To support the request for reconsideration, the Claimant submitted a letter of explanation (4 pages), miscellaneous documents identified as Contracts 1 – 6; a closing report showing borrowers that did not close; a copy of the Governor Executive Order addressing property appraisals/value; a copy of two letters from the State of Florida Chief Financial Officer, and a copy of the Claimant's 2010 Income Tax Return.

Bases for Reconsideration:

On reconsideration, the Claimant again asserted that the \$28,000.00 claim to the OSLTF supports and details the loss of origination fees and in one case a reduction of an origination fee that the Claimant asserted was due to the Deepwater Horizon incident. The only new documents submitted on reconsideration were (1) updated GFE associated with the [REDACTED] contract, 2010 Income Tax Return, two letters from the State of Florida Chief Financial Officer, and Governor Executive Order addressing property appraisals/value; however, none of these documents are persuasive in support of the request for reconsideration.

With respect to issue #1, the first contract addressed by the Claimant for [REDACTED] did actually close and the Claimant did receive a reduced origination fee commission as the Broker for the real estate transaction. The Claimant is requesting the difference between what the original [REDACTED] calculated for the Broker's origination fee commission vice what the final GFE origination fee commission was amended to because the purchase price of the property was reduced for an unknown reason. While the origination fee commission was reduced due to changes in the contract between the Buyer and the Seller, the Claimant did not provide contract documentation between the Buyer and Seller establishing the purchase price reduction and subsequent reduced origination fee commission was due to the oil spill. Additionally, even if the NPFC had sufficient contract documentation between the Buyer and Seller, the ultimate loss to the Broker was a direct result of a contract amendment between the Buyer and Seller and not the direct result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil therefore the loss associated with contract #1 is denied.

With respect to contract issues #2 - #5, the Claimant asserted that these deals did not go to close because the appraised value was too low. The Claimant has not provided detailed documentation from either the Buyer or the Seller in order for the NPFC to establish why these contracts did not close, i.e., whether the Buyers were able to get sufficient financing because of the appraised

values, whether the contracts were voided because of disputes over the purchase price or for other reasons. Thus, the losses associated with contracts #2 - #5 are denied because the Claimant has failed to demonstrate that the alleged losses were a direct result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil as opposed to the result of contractual issue(s) associated with the pricing and appraisal(s) on each property.

With respect to contract issue #6, the Claimant asserted that this deal did not close because the Buyer got scared due to the oil spill and backed out of the contract. The Claimant has not provided any documentation associated with the contract and the provisions of the said contract that would allow a Buyer to back out therefore the NPFC has no concrete documentation between the Buyer and the Seller to support the assertion made. Additionally, even if the Claimant could provide such documentation, the loss the Claimant is alleging is the direct result of a contractual issue between the Buyer and the Seller and therefore not the direct result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil therefore this portion of the claim is denied.

The NPFC has determined that the Claimant has again failed to meet the burden to demonstrate that the alleged loss associated with the above referenced contracts was not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil but rather contractual issues between the Buyer and the Seller in each case.

This claim is denied upon reconsideration.

Claim Supervisor:  on

Date of Supervisor's review: 6/1/11

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments:

U.S. Department
of Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CN)
Phone: [REDACTED]
E-mail: [REDACTED]

16480

19 January 2011

CERTIFIED MAIL Number: [REDACTED]

[REDACTED]
Mobile, AL 36660

RE: Claim Number: N10036- 0197

Dear [REDACTED]:

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating individual and business claims on behalf of BP.

Facts

You presented a claim for Emergency Advance Payment to the GCCF, which was denied on 23 October 2010. On 3 December 2010, you presented your claim to the NPFC for lost subsistence use of natural resources following the Deepwater Horizon incident. You seek \$3,600.00 (\$600 a month for six months) as damages for lost subsistence use, determined as the cost to replace fish that you claim you would have caught and used for subsistence food during a six month period if the spill had not occurred.

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

- 1) be for lost subsistence use and submitted by an eligible claimant;
- 2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
- 3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
- 4) describe efforts to mitigate the subsistence use loss; and
- 5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 3 December 2010 included a letter with the following supporting documents: your GCCF claim form seeking an Emergency Advanced Payment of \$1,200 (\$200 a month for six months) for lost subsistence use of natural resources; a letter to [REDACTED] describing your loss dated 29 July 2010; your driver's license; a copy of your recreational, disabled fishing license for freshwater and saltwater, effective from 8 August 2010, with no expiration; a letter from [REDACTED] affirming that you fished regularly; and receipts for replacement resources from [REDACTED], [REDACTED], [REDACTED], and four hand-written receipts without an establishment name or date.

NPFC Determination

You have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you have not demonstrated a lawful pattern of subsistence use prior to and during the initial period of the incident. You provided a copy of your recreational fishing license valid from 8 August 2010¹, which indicates that you were lawfully able to fish for sport or recreation from 8 August 2010, forward. You did not, however, provide a valid fishing license for the period prior to August 2010 that would demonstrate you were eligible to catch fish or provide sufficient information to support a regular pattern of catch that you or your family relied upon to meet the minimum necessities of life. You also claim losses for periods that fishing was allowed, suggesting that at least a portion of your claim resulted from your choice not to fish rather than the Deepwater Horizon oil spill. You also do not describe any attempts to mitigate your subsistence use losses, to the extent that they occurred, by fishing in locations that were not closed to fishing. Further, the receipts you provided do not support damages incurred in the amount claimed, \$600 per month for six months.

Finally, your claim letter to Mr. [REDACTED] at GCCF states that at least part of your loss was for fishing as a recreational activity. Under OPA, the OSLTF is not available to compensate individuals for lost opportunities to catch fish for sport or recreation.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0117) to:

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

¹ Your disabled fishing license has no expiration. Therefore, you were either not in possession of a license prior to 8 August 2010, or you possessed something other than a disabled license.

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [REDACTED]

Sincerely,



U.S. Coast Guard

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 1-800-280-7118

E-mail:

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

5890/DWHZ

Claim # N10036-0198

29 December 2010

Foley, AL 36535

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0198 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0198.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11

FOIA2001-3380-0000786

CLAIM SUMMARY / DETERMINATION FORM

Date	: 28 December 2010
Claim Number	: N10036-0198
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$40,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, [REDACTED], on behalf of [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$40,000.00 in real or personal property damage, in the form of lost property value, as a result of the Deepwater Horizon incident.

Claimant entered into a sales contract to purchase a condominium property on 05 April 2010 located within the [REDACTED] complex in Gulf Shores, Alabama. Claimant was in the process of closing escrow on the condominium when the Deepwater Horizon incident occurred. Claimant states that as a result of the incident, they were "forced to purchase damaged goods" and is claiming that the value of the property has since declined. The property transaction had a closing date of 03 May 2010.

Claimant applied to the GCCF for an Emergency Advance Payment on 05 October 2010. The GCCF assigned Claimant with claim identification # [REDACTED]. On 12 November 2010 the GCCF denied the claim. The Claimant provided the NPFC a copy of 12 November 2010 denial letter.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA), provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shoreline or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a).

Under 33 U.S.C. § 2702(b)(2)(B), real or personal property, a claimant may recover damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions, a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Under 33 C.F.R. § 136.105 (a) and § 136.105 (e)(6), the claimant bears the burden of providing all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Pursuant to the claims regulations at 33 C.F.R. § 136.213, a claim for injury to, or economic losses resulting from the destruction of, real or personal property may be presented only by a claimant either owning or leasing the property. Further, any claim for loss of profits or impairment of earning capacity due to injury to, destruction of, or loss of real or personal property must be included as subpart of the claim under § 136.213 and must include the proof required under § 136.233.

A claimant seeking compensation for damages to real or personal property must establish –

- (1) An ownership or leasehold interest in the property;
- (2) That the property was injured or destroyed;
- (3) The cost of repair or replacement; and
- (4) The value of the property both before and after injury occurred.

In addition, for each claim for economic loss resulting from destruction of real or personal property, the claimant must establish-

- (1) That the property was not available for use and, if it had been, the value of that use;
- (2) Whether or not substitute property was available and, if used, the costs thereof; and
- (3) That the economic loss claimed was incurred as the result of the injury to or destruction of the property.

If a claimant is claiming loss of profits or impairment of earning capacity due to injury to, destruction of, or loss of real or personal property, the claimant, pursuant to 33 C.F.R. § 136.233, must also establish:

- (a) That real or personal property or natural resources have been injured, destroyed, or lost.
- (b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of the property or natural resources, and the amount of that reduction.
- (c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- (d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS

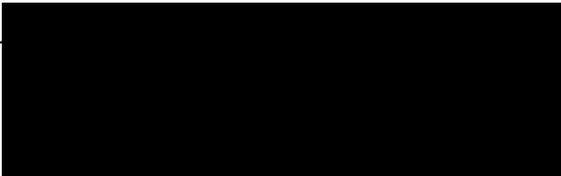
Claimant's Submission

To support the claim, Claimant presented to the NPFC an Optional OSLTF Claim Form dated 01 December 2010; original purchase offer from Claimant dated 04 April 2010, counter offer from seller dated 05 April 2010, counter offer from Claimant dated 05 April 2010, Settlement Statement and MLS listings of condos in the same complex for sale as of 30 November 2010.

The sum certain of the claim is based on the difference between the purchase price of \$275,000.00 dated 05 April 2010 and Claimant's current estimated value of \$235,000.00 as of 30 November 2010. The Claimant purchased the property as an individual and is not in the real estate business.

NPFC Determination

The claim is denied. Under 33 U.S.C. § 2702(b)(2)(B), real or personal property, a claimant may recover damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property. In this case the Claimant has not alleged that his property has been physically damaged by the discharge of oil but is claiming a diminution in the property's value. He claims instead an economic loss, asserting that the property has decreased in value because of the oil spill. However, the Claimant has not experienced an economic loss in fact because he has not sold the property for less than he paid for it. As a result, any loss that he might experience in the future remains both prospective and speculative.

Claim Supervisor:	
Date of Supervisor's Review:	<i>12/29/10</i>
Supervisor's Action:	<i>Denial approved</i>
Supervisor's Comments:	

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

5890/DWHZ
Claim # N10036-0199
24 February 2011

RE: Claim Number: N10036-0199

Dear [REDACTED]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0199 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0199.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[REDACTED]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form
09/13/11

FOIA2001-3380-0000790

CLAIM SUMMARY / DETERMINATION FORM

Date	: 23 February 2011
Claim Number	: N10036-0199
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$15,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 3 December 2010, [REDACTED] Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking \$15,000 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant worked at [REDACTED] in Pass Christian, MS.¹ Claimant provided paystubs that indicate she started work in July 2010, and a letter which indicated that she was let go on 21 September 2010.² Claimant stated that she lost her job and has been unable to find alternate employment due to the Deepwater Horizon oil-spill.³

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

- a) That real or personal property or natural resources have been injured, destroyed, or lost.
- b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

¹ [REDACTED]

² Letter from [REDACTED] indicating that Claimant was laid off because of the decrease in business resulting from the Deepwater Horizon oil spill, undated.

³ Letter of claim explanation from Claimant to the NPFC, undated

- c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
- d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 C.F.R. § 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- a) All income resulting from the incident;
- b) All income from alternative employment or business undertaken;
- c) Potential income from alternative employment or business not undertaken, but reasonably available;
- d) Any saved overhead or normal expenses not incurred as a result of the incident; and
- e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant submitted the following documentation:

- OSLTF claim form dated 27 November 2010;
- Copy of GCCF claim status;
- Letter from Claimant to the GCCF regarding appeal of claim, undated;
- Letter of claim explanation from Claimant to the NPFC, undated;
- 2009 W-2s for [REDACTED];
- Pay check stubs from [REDACTED] from 14 September 2009 through November 1 2009;
- Pay check stubs from [REDACTED] from 14 March 2010 through 11 April 2010;
- Pay check stubs from [REDACTED] from 12 July 2010 through 19 September 2010;
- Claimant's personal tip journal from 07 March 2010 through 06 April 2010;
- Letter from [REDACTED] stating Claimant received two checks in July 2010 for her employment dated 19 October 2010;
- Letter from [REDACTED] indicating that Claimant was laid off because of the decrease in business resulting from the Deepwater Horizon oil spill, undated; and
- Copy of a voided personal check from Claimant;

Claimant seeks a total of \$15,000 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 18 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of \$15,000 with the GCCF for lost profits and earnings. She was assigned GCCF Claimant ID [REDACTED] and Claim [REDACTED]. On 4 November 2010, her claim was denied by the GCCF.⁴

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by Claimant.

Claimant alleged that she lost her last job and remains unemployed as a result of the Deepwater Horizon oil-spill.⁵ After initially reviewing the Claimant's file, the NPFC determined that additional information would be needed to further evaluate her claim. On 27 December 2010, the NPFC mailed the Claimant a letter requesting additional information and clarification on her claim. The Claimant received and signed for the letter on 02 January 2011. To date, no response has been received by the NPFC.

The NPFC consequently evaluated the claim with the documentation it already had from the Claimant. That evidence does not support the allegation that Claimant suffered a loss in earnings as a result of the Deepwater Horizon oil-spill.

The claim is denied because the alleged loss in the amount of \$15,000.00 is not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil and the Claimant failed to meet her burden in demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: *2/24/11*

Supervisor's Actions: *Denial approved*

Supervisor's Comments:

⁴ Claimant has a Full Review Final claim under review at the GCCF.

⁵ OSLTE claim form.